

# MIDWAY

*A Magazine of Discovery in the Arts and Sciences*

Who Speaks for the American Indian?

ALEXANDER LESSER

Changing Trends in Informal Marriage

WALTER D. WEYRAUCH

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# WHO SPEAKS FOR THE AMERICAN INDIAN?

ALEXANDER LESSER

*Why don't we get out of the way of the "stubbornest non-conformists" among us, and stop hampering their efforts to work out their own destiny? Here, says an expert on Indian affairs, is our opportunity to show how tolerant we are of diversity anywhere.*

To a good many Americans, the American Indians are a "problem," and by no means a simple problem that can be easily solved. This rather common American feeling cannot be accounted for alone by the position of the Indians as a minority, or by the disadvantages that go with it. In actual situations of discrimination, the public mood is clear and action prompt. Thus, in Pontiac, Michigan, in 1960, when a Winnebago veteran was denied burial in a cemetery "restricted to Caucasians," the people were indignant and interred him with public ceremony and military honors. This kind of Indian "problem" is unlikely to leave vague discomforts unresolved.

The sense that Indians are a special "problem" comes, I think, from their unique position rather than from their minority situation—their distinctive legal status in relation to the nation and their stubborn insistence on their Indian identity.

Neither of these is clearly understood by the public, and the intrusion of either or both may so color a situation that public reaction is confused and uncertain. The recent situation in New York illustrates this. Edmund Wilson in *Apologies to the Iroquois* observed in Niagara Falls that "a good deal of sympathy . . . for the fight of the Tuscaroras" against New York Power Authority plans to take Tuscarora lands for a hydro-electric project "turned into a kind of resentment" when the Indians, invoking tribal rights under treaties with the United States, seemed to be winning; non-Indians in the same predicament had no such legal argument against condemnation. This kind of situation may not evoke a definitive public reaction; it is more likely to generate uneasiness and leave behind it a sense of "problems" unresolved.

A resolution of this special Indian "problem" is unlikely unless the factors involved in the Indian situation are understood and unless the historical significance of the position of the Indians in the United States is realized.

Americans not in direct contact with Indians may not even be aware of their existence most of the time, and the experience of rediscovery, when Indians make headlines, may itself be disturbing. Indians are a reminder of a past that troubles the American conscience. More than that, their existence as *Indians* unsettles the firm conviction that in this country, with its superior institutions, assimilation is proper and desirable and in fact an inevitable, automatic process. Why, after centuries of contact with us, should Indians still feel so separate and aloof?

In 1961, the striking fact is that Indians are not only here with us to stay, in the sense of biological survival, but that there are many thousands of Indians—in twenty-nine of the fifty states—still essentially unassimilated. (The census shows a marked increase in Indians during recent generations, and a

rate of population growth more rapid than that of the country as a whole or of any other identifiable group. There are now between 400,000 and 500,000 Indians in the continental United States and Alaska, and, if the present rate of increase continues, descendants of the original Americans may be as numerous in another generation as their ancestors were in Columbus' day.) They have not experienced that identification of interests and outlook, that "interpenetration and fusion," in which they would have acquired American "memories, sentiments, and attitudes" and come to share our "experiences and history" which the late Chicago sociologist, Robert E. Park, saw as the essence of assimilation.

Most unassimilated Indians live in Indian communities. There are many—in twenty-nine states. Pueblo and Hopi communities of New Mexico and Arizona and the Navahos are perhaps best known. In the Southwest are also Apache communities, the Pima and the Papago and the Havasupai, among others. But Indian communities are found as well in other parts of the country. To mention a scattered sample: the Eastern Cherokees of North Carolina; the Chippewas of Red Lake, Minnesota; the Menominees of Wisconsin; the Sauk and Fox of Iowa; the Hidatsa, Mandan, Arikara, and several divisions of Teton Sioux in the Dakotas; the Blackfeet and Cheyennes in Montana; the Klamaths in Oregon. Other states in which Indian groups survive include Oklahoma, California, Nebraska, Kansas, Wyoming, Idaho, and Washington. Americans recently became aware of two in New York, the Tuscaroras and the Senecas, when these Iroquois opposed state and federal plans to inundate Iroquois lands by construction of dams for power and flood control. Edmund Wilson, in memorializing these people in *Apologies to the Iroquois*, gives eloquent testimony to the viable group life of these and other Iroquois communities of New York.

In size, these communities range from the Navahos, the largest, with more than 70,000 members, to small communities like the Sauk and Fox of Iowa, who number a few hundred. In culture, there is great diversity, and Indians still tend to identify themselves first as Navahos, Sioux, or Cherokees, and secondarily as Indians.

Indian groups are of course only a handful of the tribes who originally peopled the country. But their endurance, and the deep sense of tradition and identity which many retain, is a remarkable phenomenon. They have survived the exterminations which depleted and destroyed Indian peoples of the Atlantic seaboard and of California; the forced evacuations which took many from their homes into alien country; and the concentration of tribal groups in restricted areas, stripped of their traditional land base.

Most important of all, they have survived despite the generations of national effort to force assimilation upon them, for our dominant Indian policy from the beginning has been assimilation. Their existence today reflects the voluntary decision of their members, as citizens of the United States, to maintain traditional group life, in many cases on the homelands of their ancestors—a decision which speaks strongly for the vitality of the Indian way and the values of Indian group life. (By 1924, more than two-thirds of the Indians were citizens under treaties and agreements. In that year citizenship was confirmed by enactment for all Indians born in the country. Indians have full rights of citizenship, which includes, of course, the right to complete freedom of movement anywhere. The time is past when Indian communities can be dismissed as “segregation” or as “concentration camps.”)

How “Indian” is life in these communities? Measured by externals, by clothes and housing, by use of non-Indian technology and gadgets, or by ways in which many now make a liv-

ing, it may appear that the people of these communities have on the whole adopted our ways. The San Carolos Apaches of New Mexico, for example, raise some of the finest American livestock for market. The Red Lake Chippewas of Minnesota ship fish by refrigerated trucks for sale in Chicago. The Sauk and Fox of Iowa make a living by working for wages among their non-Indian neighbors. Indian life has not been standing still. The Indians have been making accommodations and adjustments to our society and economy from early times, and they continue to do so.

But modern studies of Indian communities show that adoption of the externals of American life is not neatly correlated with accompanying changes in basic Indian attitudes, mind, and personality. Feelings and attitudes, the life of the inner man, change more slowly than utilitarian features of comfort and convenience. Studies among the Cherokees of North Carolina, for example—considered one of the Five Civilized Tribes for more than a century—and among the Navahos of the Southwest reveal the same inner Indian feelings about the world and man's place in nature, the same non-competitive attitudes, the same disinterest in the American drive for progress and change.

The changes these community Indians have made over time, taken all in all, seem selective. Some inner man resisted complete annihilation of self and identity and held fast to values and attitudes acquired in a mother's arms and on a father's knee, and chose from us some things of use but not others. They chose principally what we call material culture and technology, and little of our sentiments and values and our philosophy of life.

Indian non-assimilation in an America which has so largely assimilated many peoples from many lands is an anachronism only if we think of the Indians as merely one among many

American minorities and if we look for the same process of cultural change and adjustment in them all. The others are immigrant minorities; with the exception of the Negroes, they came here voluntarily, and their coming, their choice of a new homeland, implies some commitment toward assimilation.

The Indian situation and Indian relations with the dominant culture in America are quite different. The Indians have roots deeply buried in the soil; their communities have a history in the land more ancient than that of the majority people. They can best be compared with European national minorities who became part of an alien country as a result of national expansion or, in North America, with the French-Canadians of Quebec who became part of an English country after 1763. In these cases, as among the Indian communities, the people are resistant to assimilation and try to maintain traditional ways and even traditional language.

What is true of those who remain at home in close association with their own ethnic community, however, is not true of those who may migrate and take up life elsewhere. Members of European national minorities may move into industrial cities or emigrate to America; French-Canadians of Quebec may migrate to western provinces of Canada; American Indians may leave their tribal communities for life in our towns and cities. As in the case of European immigration to the United States, Canada, or Latin America, the migration is a movement of individuals and families.

If they do not return home, these migrants are subject to assimilating influences of a different culture to a degree that their kinfolk at home are not, and they are more likely to be receptive to assimilation. The process takes time and usually takes place over generations. The original migrants achieve only partial assimilation; their children, especially when schooled entirely in the new environment, carry the process

further; and in the third generation assimilation becomes virtually complete.

This kind of assimilation has taken place over the years among our Indians, as individuals or families have left their communities and in time severed their tribal connections. How many have left Indianism behind in this way we do not know, for it is difficult to keep an accurate count, but there have been many.

A confusion between this process of assimilation of migrants over a period of generations and that of the adaptive change and accommodation going on in Indian home communities may explain the confident predictions made on more than one occasion that this or that Indian community would become fully assimilated in some definite period of time. The stated period is often twenty-five years, approximately a generation. At the end of that time, however, contrary to predictions, the community is still there, as strong in numbers and as viable and unassimilated as ever. Some members may have left and chosen assimilation, but an increase of the population at home has usually more than made up for the loss. It has become increasingly probable that many of the communities that have endured are likely to be with us for a long and indefinite future unless radical or brutal measures are taken to disorganize and disperse them. We may have to come to terms with a people who seem determined to have a hand in shaping their own destiny.

Nor is the persistence of these Indian communities in an industrialized America a wholly exceptional fact in the modern world. Communities with strong commitments to traditional ways of life are known in industrialized European areas. For example, the Keurs, in *The Deeply Rooted*, describe a traditional Drents community in the Netherlands. More striking are studies in Wales and Cumberland, close to the heart of

industrial England, the original home of the Industrial Revolution. Alwyn Rees, in *Life in a Welsh Countryside*, found country neighborhood patterns of life persisting in Wales in 1940 from a pre-industrial past and, in some ways, from a more remote pastoral and tribal past. W. M. Williams in *Gosforth*, describes Cumberland ways in 1950 still unassimilated by industrial England, still persisting in traditional patterns hundreds of years old.

Such obstinate endurance, with its inner resistance to engulfment by dominant but alien traditions, can be understood, no doubt, as a reflection of the fundamental role of primary relationships—especially that of parents and children—in handing on basic attitudes, feelings, and patterns of interpersonal relations. But it is also a stubborn fact of vital importance in understanding the contemporary world of many peoples and many cultures, each of whom may seek from the West ways to improve standards of life, but each of whom may at the same time be determined to keep an identity and tradition of its own.

The feeling that Indians are a special “problem” is not a reaction only to Indian non-assimilation. The unique legal status of Indians, when it obtrudes and reveals that Indians may have special rights other citizens do not have, is equally disturbing. It offends the American sense of fitness and equality, the feeling that there should be no special groups—none at a disadvantage and none that have advantages over others.

For it is true that the distinctive legal position of the Indians—their primary relation to the federal government—involves what may be called “special rights.” The government, as trustee, protects Indian lands, and such trust-protected lands are exempt from state and local taxation. (However, Indians pay all other taxes paid by other citizens, including real estate taxes on Indian-owned land not in trust status.) The federal government



provides services to Indians, including agricultural and soil conservation services and health and education services, that others receive principally through state and local agencies. And Indian communities have under federal law rights of community self-government and the right to organize tribal business corporations.

The federal status of Indian communities began in early times, and it has a long history. For more than a century after colonization, the balance of power was on the Indian side, and the colonists, seeking peaceful relations essential to the survival and expansion of settlement, dealt with the Indian tribes as they found them—autonomous and self-governing. They made treaties and agreements with individual tribes through tribal leaders.

This recognition of the autonomy of the separate Indian tribes became a principle of dealing with them as independent nations which the United States inherited from British colonial rule. Thus, Indian relations were external affairs of the United States—a matter for treaty-making by the nation and not by the states. We “bought the United States” from the Indians, to use a phrase of Felix Cohen’s, by treaties with individual Indian tribes, treaties which, as part of the bargain, guaranteed trust protection of remaining Indian lands and freedom from taxation on those lands. When the treaty-making period was ended by Congress in 1871, the Indians, as dependent groups within the nation, remained a federal responsibility and the provisions of treaties made before 1871 became continuing federal obligations to the Indians, the basis of most of the “special rights.”

The special status of Indians and their “special rights” not only are themselves annoying to us but seem related to that other needling fact about Indians: the aloof pride with which many have persisted in remaining Indian. For their status and

rights set the Indians apart, a unique group of American citizens, and thus aid and abet them in keeping a separate identity. On the whole, however, it helps those remain Indian who want to be Indian, who express their wish by clinging together in a community; those who want assimilation can and do leave the community and go their separate ways.

During the more than a century of the country's commitment to a policy of assimilating and absorbing the Indians, the government has not been unaware of the role of Indian community life and the federal Indian tie in thwarting the assimilation process. In 1887, Congress saw Indian patterns of land tenure as the foundation of Indian community institutions and attacked them in the General Allotment Act. That act, by ending communal land tenure and making Indians individual property owners, was intended to break up tribal life and assimilate Indians as individuals; unhappily, when communities disintegrated under its pressures, the detribalized individuals who lost their lands became, not assimilated Americans, but paupers and public charges. (The act was in force forty-seven years. During the period, two-thirds of Indian-owned lands of 1887 were alienated from Indian ownership, principally as a result of the procedure of first individualizing land holdings and then removing them from trust status. Some tribes were not subject to allotment, especially tribes in the Southwest. Of the many who were subject to the program but opposed it, few wholly escaped; the Red Lake Chippewas of Minnesota are perhaps the outstanding case. Some of the disastrous effects of the allotment program were remedied in the Indian New Deal period that began in 1934. In 1960, one tribe, the Northern Cheyennes of Montana, was trying to promote a tribal "Fifty-Year Unallotment Program" to return all allotted lands still Indian-owned to tribal ownership.)

As recently as 1953, Congress proposed to terminate the federal Indian tie as rapidly as possible, including termination of trust protection and federal services to Indians. The intent was clear: immigrants do not become fully assimilated as tribal groups and neither would Indians. Although the termination program is at a standstill for the present, two large tribes, the Menominees of Wisconsin and the Klamaths of Oregon, are now going through the last stages of termination procedures enacted in 1954.

If it be admitted that the persistence of Indian communities is related to their federal status, and that Indian rejection of full assimilation is related to the fact that Indian communities survive, there still remains the question: Should the nation's Indian policy be committed to and directed toward assimilation?

For a brief period, while John Collier was Commissioner of Indian Affairs (1933-45), this question was courageously answered in the negative. The existence of Indian communities as a reality of the modern world was accepted and a program was designed, partly realized in legislation—the Indian Reorganization Act (IRA) of 1934 and supplementary legislation—to provide Indian communities with the legal status and machinery and the economic resources and opportunities they required to continue their existence for as long a time as they chose. Tribal self-government and tribal business corporations under this program have already been mentioned; the program also included provisions for an adequate land base, financial credit, and adequate training and education.

The charge that this program was intended to halt Indian progress and keep Indians, like museum specimens, in their ancient unchanging ways, stems from a complete misunderstanding of its motivation or from die-hard assimilationism. The program was actually committed to more change and progress toward improved standards of Indian life than had ever been

contemplated in the preceding century of Indian affairs. How Indian, in the sense of old Indian ways of life, are the livestock corporations, the farming and husbandry co-operatives, the co-operative tribal stores, or the commercial credit that were essential parts of the Collier program? The program was in fact dedicated to constructive accommodation and adjustment of Indians to modern American life, but also to the idea—unpopular, perhaps, among most Americans—that a decision to become completely assimilated and give up Indian identity and community life was not for the nation or the government to make but for the Indians to make for themselves.

Some Americans see assimilation, and ending Indian communities and special Indian status, as in the best interests of Indians. The legal forms which now safeguard the status of Indian communities are seen as restrictions or limitations of Indian activity and opportunity and not as marks of Indian freedom. The Indian rights of tax exemption on trust property are not ordinarily so characterized, of course; they are usually written off as peculiarities which set Indians apart from others, increasing social distance and the difficulties of intergroup relations. But such features of the trust situation as government control over the use and disposition of trust-protected Indian lands and other tribal assets are seen as hampering and restrictive, as undue paternalism and overprotection which increase Indian dependency and destroy Indian initiative.

Few would deny that overpaternalism has often impaired the administration of Indian affairs. The trustee relation is often ambiguous and difficult; abuse of power on the one hand or overanxiety on the other both may have damaging effects.

The difficulty is compounded in Indian affairs because the federal government is in a trustee relation to both communities and individuals. The trust protection of individual property is an outgrowth of the federal trust relation to tribal property;

tribal property may be individualized, but individual owners may hold restricted titles (in theory, being judged incompetent), rather than unrestricted titles in fee simple. This trust relation to individuals has all too often involved abuses or overprotection, and it may well be that the relation is more restrictive than liberating, especially if individuals have chosen the path of detribalization and assimilation. But it is the federal trust relation to Indian communities rather than individuals that is most germane in this discussion.

In the case of communities, it is doubtful that paternalistic abuses which have occurred are inherent in the federal trust relation. Tribal self-government, for example, since its organization under the IRA, has suffered on a good many occasions from unwarranted government interference. When Indians asked for clarification of their rights under new tribal constitutions, superintendents were often too prone to interpret provisions in favor of their own authority and against that of the tribe. And when graft or corruption is alleged against tribal councils and administration, officials all too often have intervened so eagerly that Indians have had little opportunity to work out democratic processes for themselves. Federal trusteeship can be operated without such abuses.

Perhaps the more important question about the restrictive or liberating character of the protected status of Indian communities is what kind of freedom we are talking about. The freedom of Indians to become as non-Indian and assimilated as they wish cannot be the issue here. The Indians are citizens with the full rights of citizenship, and many have exercised their freedom to become completely Americanized. But there are many who want and need the freedom to be Indian within the framework of America. For them the existence of the community to which they belong is essential to that freedom, and

some defined legal status of the community is essential to its continued existence.

The disappearance of our Indian communities by assimilation has a crucial finality that assimilation can never have for other American minorities. Irish, or German, or Scandinavian, or Italian immigrants who become assimilated can still look toward a homeland from which they came, a viable tradition and culture which dignifies their origins. For the Indian, the tribal community is the only carrier of his tradition; if it disintegrates and disappears, his tradition becomes a matter of history, and he loses part of his identity. We are coming to know the importance of this sense of identification with a viable tradition in the meaning of Israel for the American Jew, or of the emergence of free African nations for the American Negro.

There is a tendency for people in the United States to think in 1961 that we may be coming of age as a people, that now we may be able to accept diversity in our midst without condescension, and that we may be ready to accept as sovereign equals the many peoples, of many races and creeds and cultures, who coexist with us in the complex modern world. Such a liberalism, however, is not yet the American mood in Indian affairs.

While we are unable to rise above assimilationism in our attitude to the Indians, the legal forms which now safeguard their community life and their right to be Indian may be essential. No doubt other forms could be developed by them within the framework of American law, such as, for example, corporate community life without a federal tie, but Indians are unwilling to risk such a change. They hold fast, in the assimilationist mood of America, to the historical status which protects them.

In other respects, however, the Indians are changing and ready for greater changes. Still greatly handicapped by their predominantly rural situation in an industrialized America,

they seek technical assistance and training if they can secure these without sacrificing the Indian status they have and want to keep.

Outstanding in the change going on among Indians is the sudden appearance in the last decade of a strong urge for advanced education. Less than two hundred Indians were in college in 1950. Yet by 1959 more than 4,300 were attending colleges and universities, and the number seems likely to continue to increase. This changed attitude toward education, which involves not only the young but their parents and families as well, implies other less obvious changes in Indian attitudes toward their life in America.

Higher education means, of course, that more Indian individuals may choose the path of non-tribal, assimilated life. But it also means that Indian community life will soon be in the hands of a generation of educated Indians. Some communities may choose to disband, with their members going their separate ways; others may want to carry on group life for an indefinite future period. In either case, the decision is likely to be made by informed, educated people, aware of their past and also of their possibilities in America.

Meanwhile, the best we can do, as Felix Cohen once put it, may be "to get out of the way" of the Indians, to stop hampering their efforts to work out their own destiny, and especially to stop trying to make them give up their Indian identity. In a world which may be moving toward greater internationalism, in which we hope that peoples, however diverse, will choose the way of democracy, we cannot avoid the responsibility for a democratic resolution of the American Indian situation. Our attitude toward the Indians, the stubbornest non-conformists among us, may be the touchstone of our tolerance of diversity anywhere.

# FRANCE TODAY

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*By Edward R. Tannenbaum*

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*A report on that most individualistic  
of creatures—the Frenchman,  
and the cultural transformation  
going on in the France of the sixties.*

Until only yesterday France seemed to be in a rut of changing governments and old-fashioned ways of doing things. This stereotyped image is itself old-fashioned now. For better or for worse, President de Gaulle has made his countrymen accept a stable political regime and a liberal approach toward their remaining colonial problems. But more important than his leadership is the cultural transformation that has been forced upon the French people by economic and technological progress and by the bureaucratization of political life. Although all modern nations have had to cope with these developments, France has done so in its own special way.

The French may be stragglers, but they are not “the worst stragglers of all”—as the *New York Times* called them in 1953. After lagging behind the British and the Germans until the



# Concieroe



*"Concierge," photo by Robert Doisneau of Rapho Guillumette Pictures,  
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late 1930's, they finally produced a comprehensive social security system with the most generous family allowances and unemployment benefits in Western Europe. Their trade-union movement remains weak mainly because of Communist meddling rather than any incorrigible individualism on the part of the workers or management's resistance to collective bargaining. The average Frenchman's standard of living is slightly higher than that of his Continental neighbors and is rising each year. In fact, now that France has more automobiles per capita than any other European country except Great Britain, her major cities are advancing to the point reached by New York and Los Angeles with regard to parking difficulties, traffic congestion, and air pollution.

Many of the traditional ways in which Frenchmen think and live are scarcely different from those of other Europeans. Social barriers and limitations on opportunities for advanced education have not disappeared completely anywhere in the Old World. Marginal farmers, small shopkeepers, and self-employed artisans are just as "backward" in Germany or Sweden as they are in France—and there are sleepy, run-down villages in these countries too. Like their Parisian colleagues, nostalgic aesthetes in Rome and London also oppose the building of contemporary structures that spoil their familiar skyline.

The face of France could certainly use a dusting and a fresh coat of paint, for the French do cling to a certain shabby splendor in their public places. Millions of new dwellings are needed, though effective steps have at last been taken to construct them. Paris itself may impress the casual tourist as a conglomeration of faded monuments and seedy apartment houses guarded by frowzy concierges with their knitting and their dogs. Except on the way to the airport he does not see the complex of modern factories and housing developments

that encircle this ancient city. Its ordinary inhabitants strike him as glib, superficial, and cold, yet they are more respectful toward individual privacy and artistic innovation than most people who live in glass skyscrapers or split-level ranch houses.

Like her physical appearance, France's ephemeral governments have hidden more than they have revealed about the way her citizens respond to the modern world. Under the Third and Fourth Republics French politics often resembled a ritual drama in which the performers acted out roles according to a script that sometimes had little to do with the interests and needs of the audience or the world outside the theater. The multiparty system in itself was not the main cause of political disequilibrium. Actually, each party represented only an *abstraction* purged of any compromising connection with a social class, an economic group, or a religious creed. Even when the workers voted for the Communists—who claimed to represent them—they were often the victims of a kind of mysticism that confused doctrine with action.

France's political parties have rarely had any relation to the realities that make up the daily lives of her people. A Frenchman is a wage-earner, a farmer, or a shopkeeper; he is from Limoges, Juan-les-Pins, or Lorraine. He is not "Democratic Alliance," "Rally of the Left Republicans," "Radical and Radical Socialist," or "Union for the New Republic." These are pure abstractions—almost mystic symbols. In the United States the names of the Democratic and Republican parties are also abstractions, but political action has been more meaningful here because of two corrective factors. First, pressure groups representing economic classes and special interests—publicly as well as secretly—counterbalance each other fairly effectively without immobilizing our national politics. Second, the American federal structure, which is reflected in a considerable degree of decentralization in party leadership, allows

the parties to represent different local interests in various parts of the country.

Not only have Frenchmen had few opportunities to take part in political decision-making on the local level, they have seemed to avoid active participation in any kind of voluntary organization. In politics their unwillingness to co-operate and compromise dates back to the Old Regime. Under Louis XVI each traditional "estate" and privileged order stubbornly defended its own interests and made reform from above impossible. The Revolution generated a passionate civic spirit for a few years, but Napoleon killed this by trying to substitute glory for liberty as its reward. Then the alternation between democratic and authoritarian regimes in the nineteenth century made people in France view the merits of both more critically than citizens of countries where one or the other predominated until it was gradually changed. A similar lack of agreement about community values was apparent in social and economic relations.

Beyond the family circle, the French became increasingly unwilling to submit to decisions made by a leader or a majority vote. They shared certain basic norms for personal behavior, but these did not work well for large groups. Call it individualism, self-reliance, nonconformism, or suspicion of outsiders—the fact remains that Frenchmen were not "joiners" like Britishers, Swiss, Scandinavians, and Americans. Until the late 1940's there were relatively few fraternal organizations, church auxiliaries, amateur theatrical and choral societies, or non-professional sports teams in France. Even socialites who consciously aped English manners were only partially successful in adapting themselves to club life.

Apparently, then, most Frenchmen have not worked well together in organizations that were supposed to serve their needs. In both their national and local affairs they have had

little practical experience in co-operating with people from different backgrounds and in handling problems of planning, administration, and public relations. Since the political parties themselves do not correspond to any clearly determined economic and social realities, France's citizens have tended to think of each of them as "a state of mind," rather than as an instrument for effective group action. The politicians, in turn, have treated politics as a game, which they monopolized and which they played according to their own rules (except during the two world wars) until the end of the Fourth Republic.

But behind the façade of parliamentary democracy there were stabilizing agencies whose powers were not derived from the individual voters. The permanent bureaucracy carried on the work of government at all times and was virtually unaffected by periodic cabinet crises or even changes in regime. Frenchmen were certainly aware of the power of the civil administration. They felt this in their everyday dealings with the law courts, the police, the various ministries, and the government-operated public services and utilities. Long before the twentieth century they had become accustomed to viewing the state as a transcendent power embodied in a bureaucratic, almost military, structure. It had been founded by the Bourbon kings and given its permanent form by the two Napoleons. During the Vichy period it maintained some semblance of order even toward the end, when Pétain's puppet regime was virtually powerless.

Despite all the rites and symbols that have identified the Republic with the Nation since the Revolution, most Frenchmen have continued to view it as if it were still the private patrimony of Louis XIV. They have criticized it, cheated it, and complained about its taxes and red tape. At the same time, they have placated it and revered it as an omnipresent power. For them *La France* is not the French people; it is, on the one

hand, a glorious myth of which they want to feel proud and, on the other hand, a group of politicians, generals, and administrators who dispense progress, security, and justice. Its citizens have expected all these benefits, believing that, in return, their main duty was to risk their lives for it in time of war.

Indeed, the behavior of many Frenchmen toward the state has often resembled that of draftees in a modern army, where the goals are to preserve one's individuality, evade the regulations whenever possible, and obtain special privileges, preferably on a permanent basis. Unlike soldiers, the French people have had the illusion of control over the central decision-making bodies through their elected representatives, though they have usually treated their deputies as "influence peddlers" rather than lawmakers. The contrast between belief and reality has been evident even in the symbol of the Republic, Marianne. She wears a Phrygian bonnet; she should be wearing a military cap.

For over a century the Council of State has served as a superior tribunal over the administrative agencies of public power and has approved or disapproved the appointment, retirement, and promotion of every official by a government or cabinet minister. Parliamentary deputies rarely "investigated" the activities of the bureaucracy under the Third and Fourth Republics, and when they did they failed to weaken its authority. Few people knew of the arbitrary way in which the Council of State interpreted the laws enacted by the legislature and sometimes quietly buried them. Fewer still understood to what extent the financial administration modified and interpreted the budget—how it sometimes determined the life or death of a government through its control over state revenue and expenditure. Hadn't the constitution given parliament the legislative power that had been achieved historically in all

democracies through the control over the nation's purse strings exercised by the representatives of the people?

Their habit of confusing theory with practice prevented most Frenchmen from understanding the true organization of power in their own country. Their growing cynicism toward the government and toward politics in general was therefore naïve. It resembled the unsophisticated mistrust of a small shopkeeper or farmer toward anything big or new. These people explained the motives of others, great and small, as examples of petty self-aggrandizement without being aware of the kinds of stakes involved. Many Americans attached a similarly limited interpretation to the gifts of mink coats presented to certain Washington secretaries by businessmen seeking government contracts immediately after the Second World War.

Another extra-constitutional development in France during the first half of the twentieth century was the growing importance of powerful parliamentary committees—especially the one in charge of public finance. These practically monopolized the initiation of many laws and sometimes influenced the fall and formation of cabinets. At their closed hearings the representatives of special interest groups could press for alterations in pending legislation with virtually no interference from the majority of the deputies or the public. The ministries affected by these discussions defended their own interests by appointing special agents to supervise the committee chairmen in preparing their reports to parliament. Hence, a structural change was taking place whereby organized pressure on relatively permanent and irresponsible standing committees was supplanting open debate on the floor of the national assembly as the real lawmaking procedure.

The practice of trying to influence the rulers of states for private ends is as old as civilized society itself. All governments

make and enforce political decisions, and most of the time they have complete control over the agencies that serve these functions. Any individual or group that wants these decisions—and their enforcement or lack of enforcement—to benefit them must either put pressure on those people who hold power or else seize it themselves. In ancient Rome armies stationed in the provinces made and broke consuls and emperors. The medieval popes and the prelates of the national churches forced kings to do their bidding in a variety of ways. And court favorites from Madame de Pompadour to Sherman Adams have always been able to help their friends.

As various countries became industrialized in the nineteenth century, the role of governments in economic affairs increased, and pressure groups began to influence them. The most consistent issue was tariffs—for example, the British Anti-Corn Law League and the conflict between Northern industrialists and Southern planters in the United States—but ideological motives also produced movements like the American Abolitionists, French Republicans, Pan-Germanists, and Pan-Slavists. Organizations of both types became active in autocratic as well as in liberal political systems. French bankers and manufacturers succeeded in persuading King Louis Philippe in the 1840's and the republican premier in the 1890's to safeguard their interests against unfavorable fiscal measures and foreign competition.

In the twentieth century the trend toward group action in politics has grown in France as elsewhere. The Bank of France, the army, the high civil service, and certain business trusts have periodically used their power and influence on the government for their own purposes. Freemasons, lay Catholic associations, veterans' leagues, and the trade unions expanded their membership during the interwar years and tried increasingly to determine public policy. Since the Second World



War the most striking change in French political behavior has been the participation in organizations for collective defense by traditionally individualistic small producers and merchants, professional men, writers, and even students.

Thus, pressure groups seemed to be eliminating the importance of the individual in French politics. For a long time most Frenchmen hardly understood what was happening, but by the 1950's the change was apparent to everyone. Sugar-beet growers, antitax leagues, colonial lobbies, and, finally, the army itself came out into the open to defend their vested interests against those of their rivals. Although their professional organizers still tried to bully the elected representatives of the people, they directed their main persuasive efforts at the appointed officials of the Fourth Republic. Some of the leaders of the trade associations representing big business had been lured away from the civil service by high salaries and were especially adept at utilizing their personal contacts with their former colleagues for the benefit of their new employers.

It should be noted that many top-ranking French civil servants are no longer old-style bureaucrats but brilliant young technical experts. Despite the subtle attempts to influence them, they have maintained their high principles and their determination to make France an efficient, modern nation. They were already accomplishing this (the work of the Monnet Plan for Modernization and Re-equipment is only one outstanding example) while the rival political parties and pressure groups were approaching a stalemate in the early 1950's. Yet they too fell into a certain inertia for want of galvanizing leadership.

As the Fourth Republic practically ceased to function effectively, power passed unobtrusively into the hands of non-elected officials. The majority of France's citizens knew that constitutional reforms were necessary in order to make their

democracy work, but, as in the case of so many other issues, they could not agree on any positive program of action. By the mid-1950's they began to lose interest in politics altogether—they were becoming “depolitized.” Liberal-minded Frenchmen have decried these developments and have said that the Fifth Republic—despite its preservation of parliament and the multiparty system—is basically authoritarian. Although the long-term effects of the new constitutional and electoral law are difficult to foresee, it is clear that President de Gaulle now relies heavily on the experts who advise him. He has brought about the *de jure* transfer of power to the technocratic bureaucracy.

It is unlikely that France or any other country will ever become a pure technocracy à la Saint-Simon or Aldous Huxley. This kind of Brave New World is almost as utopian as the stateless, classless society forecast by Marx. Wherever there is power there will be politics. The “Big Daddy” type of politician, whether war hero or party boss, may go down in the struggle for control of the state between new technical elites in administration, industry, “human engineering,” and the military; or he may survive as a front man to win over the masses. But as long as there are “summits” to be climbed and conflicting interests to be reconciled, there will be a need for statesmen as well as technicians.

There has been no “thirteenth of May” to dramatize the silent revolution in France's economic life, which has met with a more sustained resistance than its political counterpart. The fact is, however, that the gross output of all goods and services at market prices has increased at an average annual rate of 5 per cent since 1953. Not all Frenchmen have experienced an equal rise in their standard of living, and various sectors of the economy have expanded at different rates. (In industry alone the annual rate of increase was close to 10 per cent be-

tween 1953 and 1957 and again in 1959.) But the pattern of growth has established itself and has begun to color most people's expectations about the future. (The main reason for the rising standard of living among most wage-earners was that, by 1957, wages had risen to 132 of the 1952 base of 100, while the cost of living had remained virtually unchanged during those five years.) After over two decades of living off their capital the French have been increasing their production of everything, including children.

In the early fifties the utilization of previously unused productive capacity was a major cause for the increase in national production and in the general wage level. Many steel mills, coal and iron mines, vineyards, and shoe factories raised their output simply by using more existing equipment and resources. The labor force was also utilized more fully by the elimination of unemployment and the lengthening of the average workweek to forty-six hours. Workers were thus able to produce more goods and to make more money without necessarily improving their efficiency. In the long run, though, greater productivity based on technological progress has been the main factor in economic growth and in the higher standard of living that has resulted from it.

France did not really move into the steam age until the second half of the nineteenth century. Like other Western countries she began the process of industrialization by improving manufacturing and organizational techniques, by exploiting hitherto unused or partially used resources, and by transferring labor from less productive to more productive forms of employment. The steam engine gave her a modern transportation system and a nascent heavy industry. During the period of the Second Empire new credit institutions stimulated expansion, which was also aided by railroad-building and municipal works programs. The government of Napoleon III guaranteed the in-

terest on investments in corporations set up to finance these projects, and in 1867 it passed a law facilitating the formation of private companies with limited liability. Despite France's relatively late start, the real value of her industrial production per man-hour (her productivity) increased at a higher rate than in Germany, the United States, or Great Britain from the 1850's until 1900. After that it fell into last place.

Although less pronounced than in Great Britain or Germany, the migration of people from rural to urban areas continued slowly but steadily in France. Between 1856 and 1956 the proportion of Frenchmen living in cities increased from 28 per cent to 55 per cent of the total population. This trend toward urbanization has been accompanied by a movement from agriculture into industry or into commerce, administration, and other services—a universal sign of economic development. In 1960 less than 25 per cent of all economically active Frenchmen are engaged in agricultural pursuits (the figures were 44 per cent in 1906 and 35 per cent in 1936), while around 35 per cent are in industry and 40 per cent in the other sectors of the economy.

These changes in population distribution were a part of France's second industrial revolution. Despite the inferiority of her coal for coking purposes, she was producing respectable quantities of steel before 1914. She also began using water power and petroleum as new fuels for the production of electricity and the operation of internal combustion engines. Although the temporary loss of the factories and mines in the Northeast reduced the country's total output during the First World War, defense needs stimulated the use of assembly-line techniques in the manufacture of munitions, motor vehicles, and airplanes. In the 1920's both total production and productivity increased, but after 1930 they stagnated for almost two decades. The continual improvement of the standard of living

until 1939, especially in the cities, was at the expense of capital investments in new productive capacity.

France fell far behind the other industrial powers during the thirties and forties. The French did not improve their level of productivity by the widespread application of technological innovations, and they did not launch big public works projects to stimulate business activity. They were just beginning to recuperate from the depression when the Second World War began. Then four years of occupation and Nazi exploitation caused a further economic regression. The late forties were devoted to reconstruction and the restoration of pre-war levels of output, as in all the former belligerent countries of Europe.

By the early fifties, however, the efforts of the Monnet Plan for Modernization and Re-equipment had helped the French economy to overcome the stagnation of the preceding decades. This government agency is unique in the history of France—and of all “capitalist” countries—in its emphasis on long-term planning and in the spirit of its members. For these men productivity has become a new gospel. They supervised the allocation of 40 per cent of all the capital invested in the French economy between 1947 and 1957 in such a way that industrially France forged ahead of the United States and Great Britain (but not West Germany and Italy) in her annual rate of growth after 1953. Except in agriculture and small-scale commerce France's present economic plant is as well equipped physically—including oil and natural gas reserves, atomic energy, modern transportation and communication facilities, and electronically controlled equipment in factories and offices—as that of most European countries. The main changes that are now needed are in risk-taking, organization, and management, rather than in machines.

The efficiency expert, the personnel director, and the technical executive are new types of Frenchmen. (They are so

new that French social scientists still do not have names for them and call them collectively "le management.") Owing to their efforts, the French can produce automobiles, airplanes, locomotives, chemical products, coal, steel, and aluminum as cheaply and efficiently as the most advanced nations. There are many examples of how new methods and new incentives have affected the productivity of French workers; the following one is typical. In 1951 a French company contracted to build a pipeline between Rouen and Paris. Using equipment identical with that of similar American firms, it advanced a rate of 700–800 meters a day, while the American average for such a job is twice this distance. The same company later began building a pipeline in Morocco, this time with the help of a few American engineers. These men introduced no technical changes; their only innovations were in planning and in the distribution of bonuses on a piecework basis. Within a few weeks the French workers not only speeded up their daily average to 1,500 meters, they raised it to 2 kilometers. As their wages began to equal those of American workers, so did their standard of living.

Not all branches of France's economy and all regions of the country have increased their productivity at the same rate. The greatest advances have been made in heavy industry, transportation, and communication. Administration and commerce lag somewhat behind, and agriculture remains, for the most part, notoriously archaic. Furthermore, much of the southern and western half of France is underdeveloped, despite the pockets of manufacturing around the larger cities. Beginning in 1955 the government tried to encourage the movement of industries from metropolitan Paris to these depressed regions. So far its inducements—bonuses, moving expenses, and tax benefits—have hardly been used. The relocation of factories that has taken place has been on a voluntary basis and has mainly

benefited the already industrialized North and Northeast.

Millions of farmers, shopkeepers, and artisans—especially in the South and West—continue to eke out a meager living in their small, inefficient enterprises, but the age of this type of economic unit—except possibly in agriculture—is over in France. Although only 1.3 per cent of the nation's private enterprises have more than one hundred people on their payrolls, they employ over half of France's workers. (The public utilities and nationalized industries are the biggest mass employers of all.) The degree of concentration is greater in industry than in commerce (except in food distribution, where the chain store is gradually replacing the self-employed shopkeeper). While businesses with zero to five employees continue to flourish in retail trade and services, those engaged in manufacturing are becoming increasingly dependent upon the big corporations, which they often serve on a subcontract basis. In any case, all of them together employ only 12 per cent of the total labor force (this figure is the same in West Germany). France is becoming less and less a country of small enterprises.

There have been fewer changes in the way goods are distributed in France than in their production, but certain innovations reflect a mass desire for a higher standard of living. Everything from men's suits to vacuum cleaners can now be bought on the instalment plan (*vente à tempérament*), though many Frenchmen, like other Europeans, still hesitate to jeopardize their financial security in this way. Another novelty in France is the supermarket. It too has gained popularity slowly because of conservative buying habits. Even so, the French are confronted every day with new marketing techniques, and these are bound to attract more and more customers. "Le self-service" is not restricted to cafeterias any more; it is offered in department stores and even in a few flower shops! Parisian merchants have become so accustomed to having clearance

sales that they hold these in July rather than August, in order to allow more people to take advantage of them before vacation time.

In France the total amount of money spent on advertising is smaller than in other countries with a comparable economic structure. Its effect on stimulating growth is sometimes debated, but the two factors are probably related, since those nations with the highest per capita expenditure on this type of sales promotion also have the highest income per capita. Besides, by creating mass markets and, hence, mass production, advertising can ultimately lower retail prices, in spite of its own cost. French advertising has been big business only since the early 1950's, but many second-rate writers, designers, and artists are already "going commercial." Their problem is to find the most effective ways of reaching buyers who are not used to this kind of huckstering. So far they have maintained a strikingly high level of quality, originality, and wit in their copy and artwork, and few Frenchmen seem to object to the results.

What French consumers do object to is standardization. They are reluctant to abandon the centuries-old habit of having the goods and services they use tailored to their individual tastes. In the early 1950's the number of self-employed artisans catering to them actually increased. Even mass-produced articles like shirts, refrigerators, and automobiles—the Simca Company alone offered twenty-three basic models in 1960, with various possibilities for changes in exterior and interior décor—come in an amazing diversity of shapes and styles. Nevertheless, there is a perceptible trend toward simplification and uniformity in all but the most expensive luxury items.

The example of women's clothing illustrates this point. Until recently the rich had their dresses made by the world-famous houses of high fashion, the poor bought them off the hanger



at the cheaper department stores, and the middle classes patronized obscure little dressmakers. Today the whole pattern is changing. Dior and Balmain make more money selling their designs to manufacturers—especially in the United States—than in creating gowns for individual clients. At the same time millions of French women are becoming dissatisfied with the slowness and capriciousness of the little dressmakers and the shoddiness of the cheap ready-to-wear merchandise. They are now shopping at a new type of establishment, called *prêt-à-porter*, which sells good quality clothes and either alters the customer's selection to suit her needs or has it made from a pattern in a workshop to fit her individual measurements. These frocks are too high-priced to challenge the off-the-hanger market, but they are driving one more type of small operator, the *petite couturière*, out of business.

In the twentieth century everyone wants more of everything: material comfort, the latest fashions, education, political power, and social standing. These things were formerly the birth-right of a privileged elite. Now young men and women everywhere are demanding an increasing share in the benefits of industrial civilization, once they learn what these can mean for them. Their level of aspiration is far higher than that of their parents, and it is rising steadily. Thirty years ago Ortega y Gasset called this trend "The Revolt of the Masses."

The *sans-culottes* of Paris first asserted themselves on July 14, 1789, but their revolt did not raise their standard of living or eliminate the class system. Bourgeois lawyers gave them the Rights of Man and told them to keep their proper place in society. Meanwhile, the bulk of the population clung to a traditional cultural pattern for over a century. Today this way of life is not only impossible, it is not enough.

Beginning in the 1930's millions of ordinary Frenchmen were finding it increasingly difficult to live in their closed little

worlds. The welfare program of the Popular Front showed the workers the possibility of social justice and integration into the rest of the nation. Then, the defeat of 1940 and the German occupation destroyed the myth of the country's impregnability to outside forces. After 1945 America's presence was felt, not only in the form of money and soldiers, but also through cultural products like Coca Cola, chewing gum, bebop, and blue jeans. But the main challenge to traditional ways of doing things has been the transformation of France's economy and technology. These changes have been made apparent to everyone through what they see and hear in the street, on billboards, in movies, newsreels, and press, over radio and television.

The political immobilism of the early fifties masked the fact that millions of Frenchmen were gradually adopting new forms of economic and social behavior. Regrets about the past and fear of the future were still strong among many intellectuals and the non-productive members of society, but they no longer immobilized the whole country, as they had done in the preceding decades. Peasant girls in shorts, middle-aged ladies on motor-scooters, coal-miners on television shows, and office clerks in the casino at Cannes—these are the signs of the new world of mid-century France.

Economic development and Revolt of the Masses have not yet broken down the barriers in French society, but they have transformed the existing system in many ways. Especially significant is the disintegration of the older peasant class and the gradual disappearance of differences between the rural and urban social structures. Although there are still almost five million agriculturalists in France, the size of their holdings and the techniques they use vary considerably, even within the same section of the country. One farmer will cultivate several hundred acres of marketable crops with machines and hired

hands, while another will try to subsist on a small plot by putting his whole family to work. Each of these proprietors leads a different style of life. The agricultural workers too are no longer simply poorer members of one big rural "class," but have come to resemble the urban proletariat in their social attitudes and standard of living. Finally, the distinction between town and country is breaking down in what used to be the outlying areas of industrial communities. In the same household, one brother will work in the fields and another in a nearby factory. The younger women also copy the fashions and tastes of their city cousins, which railroads, magazines, movies, and television bring to all but the most remote regions.

In the villages that serve the rural population the old equilibrium between artisans and farmers is being destroyed by depopulation and the mechanization of agriculture. As the more ambitious and intelligent children of subsistence farmers go away to the city, the local shopkeepers have fewer customers and a number of them are forced out of business. The old father on the farm will do nothing to improve its operation if his only heir has become a railroad workman or a policeman, so his standard of living goes down. Those proprietors who have switched to tractors and factory-made tools no longer need the services of harness-makers, blacksmiths, and coopers. These craftsmen thus lose their source of livelihood and are forced to take odd jobs in the larger towns, since they have no vocational training suitable for industry.

Many rural and small-town people seem to have a lower standard of living than their means would permit. They still preserve the ancient habit of keeping up a shabbily appearance in order to fool the tax-assessor (even though this ruse no longer really works). Their housing and sanitary facilities are considerably below the standard in urban centers, but as long as their health is good they see no reason to change. They are

even more hesitant to buy things on credit than city-dwellers, but, unless they are on the verge of bankruptcy, the younger farmers and shopkeepers want more comforts than their parents would have considered necessary.

Perhaps the most novel change in the behavior of rural people is their participation in various co-operative enterprises. In most cases these serve a purely economic function, and their educational and recreational aspects are insignificant. There are now over seven thousand consumers' co-ops in provincial France, and they sell between a quarter and a half billion dollars' worth of goods to their members each year. Since 1950 many farmers have also formed vocational training groups (*centres d'études des techniques agricoles*) in which they pool their own experiences and seek guidance in new methods from visiting experts. Another organization that has recently spread in urban as well as rural areas is the Union des Castores, whose goal is the building of apartment dwellings by the people who will live in them. These kinds of co-operation may eventually stimulate habits of working together for other purposes as well.

The more highly industrialized a country becomes, the more people are rewarded with income and status according to their specialized qualifications. Today about 65 per cent of France's twenty million breadwinners earn their living in wages or salaries. (In the United States the figure is 81 per cent, in Great Britain 89 per cent, in Sweden 80 per cent, and in Belgium 71 per cent.) There is still a great difference between the income of a high executive and an unskilled laborer, but a perceptible leveling has occurred since the beginning of the century. Its general causes have been a pronounced rise in the wages of rural and female workers and in social and family allowances.

Since 1912 the range between the highest and lowest salaries has narrowed most among government functionaries. These include teachers, professors, military personnel, judges, and over

a million other civil servants. Until 1951 the lower ranks received greater increases than the average worker; the middle group retained about the same purchasing power; and the real income of high officials declined from 10 to 40 per cent. A director-general who earned thirteen times as much as a postman fifty years ago now earns only six and a half times as much.

Except for top government administrators, this general trend toward the equalization of earnings has come about largely through a rise in the income of the masses; but not all wage-earners feel that they have benefited sufficiently. According to a 1956 opinion survey, 52 per cent of French workers saw no improvement in their standard of living. Many also believed that their comrades in other branches of industry had an advantage over them. Despite the fact that their purchasing power had been rising statistically for over five years, they did not think that they had a real share in the national prosperity or that their situation would improve in the near future.

Frenchmen's views on the country's economic improvement are a direct function of their own standard of living. Business executives, white-collar employees, and better-paid workers have the greatest purchasing power and are also the most optimistic. At the rate of 4.9 new francs to the dollar, the straight salary of a stenographer in 1959 was \$110-\$140 a month; a garage mechanic earned \$100, a tool-and-die adjuster \$150, and a television producer up to \$800. These sums are considerably augmented when the wife works—which is the case with one-third of the workers and employees and one-fifth of the supervisory personnel—and when there are two or more children, entitling the parents to generous family allowances. Thus, in 1959 the median "take-home" income of a manual laborer in Paris was \$95 a month if he was a bachelor and \$143 if he had five children. For a single skilled worker the median figure was \$111, and for one with five children it was \$221; for

an unmarried clerk it was \$120 and for an unmarried supervisor \$131.

If they had a choice, most workers would want their children to improve their standard of living by acquiring specialized skills and going into other occupations. This response contradicts their traditional class solidarity and is a more modern form of the Revolt of the Masses. Twenty-seven per cent would choose skilled jobs like mechanic or electrician; 15 per cent, engineer or technician; 10 per cent each, government functionary or schoolteacher; 12 per cent, liberal professions; 7 per cent, public transportation or the military and police force. Only 11 per cent would select the career of shopkeeper or artisan, and only 4 per cent would want a white-collar position. Given the present capacity of France's educational institutions and the surviving prejudices of the upper classes, these aspirations are merely pipe dreams. Most workers know this, so, in practice, they do not urge their children to try to rise socially. But an increasing number of them want washing machines, television sets, automobiles, and their own homes, while, at the same time, doubting that they will ever have them. Their frustration and discontent in this regard thus accentuate their feeling of being socially underprivileged.

While the workers want more physical comforts, the white-collar employees are concerned with climbing the social ladder. They are in a particularly ambiguous position, for they have the same demands and feelings of exploitation as the working class, yet they try to be respectable and conformist petit-bourgeois. Their office surroundings and their daily contact with the managerial elite has made them constantly aware of their employers' outlook and style of life. They are either more loyal to or more critical of these than the ordinary laborers, who are usually indifferent to such matters. Many ambitious employees consciously copy the reading habits, tastes in amuse-

ment, dress, manners, and even the political attitudes of the middle classes. They are especially manipulable by the mass media of communication, which disseminate these norms.

In modern society a person's social rank is determined primarily by his function rather than by his own image of himself. Not only in the Soviet Union and the United States, but in Old Europe as well, the traditional symbols of class distinctions are becoming less meaningful. Any American with enough money for the down payment can have wall-to-wall carpeting, and any urban Russian with the price of a ticket can go to the opera. Even in France the better-paid workers—especially in the nationalized enterprises, where they are technically *fonctionnaires*—are becoming petit-bourgeois in their style of life, while office clerks and secretaries are being treated increasingly as appendages of computing machines and dictaphones. The income of the latter is still slightly higher than that of the ordinary laborer, but their relations with their employers are less personal than they were in the recent past. A bookkeeper's wife who owns a fur coat may think she is a lady, but she is not any more likely to be invited to the boss's house than her working-class sister.

In addition to industrial expansion and demands for a higher standard of living, the recent increase in the number of children is hastening the transformation of France's economic and social structure. For over a hundred years there was a reciprocal relationship between Frenchmen's general conservatism and their tendency to limit the size of their families. Until a break came in one, a change in the other was difficult. The break finally came in the early forties, when the birth rate began to rise considerably. Not only has this development increased the population after a century of stability, but it has created a larger group of young people than the country has known for a long time. This crop of youngsters is now overcrowding the schools,

and in a few more years it will be economically active.

Why did French women begin to have more babies after 1942? (The main increase has come from the number of second and third births to the same mother.) Some observers attribute this change in their behavior to the family allowances of Pétain and the post-Liberation governments, but the evidence is not conclusive. Others say that it is part of a world pattern since the early forties, though the increase in France has been greater than in most Western countries. Still another view is that the apparent rise in the birth rate may be in fact a decline in the prewar abortion rate. There is no completely scientific explanation of the choices people make, especially when they live under crisis conditions. The war and the German occupation may have strengthened the values of family life and given Frenchmen an urge to survive as a nation. In any case, the growth in the size of the French family indicates a new vitality in what was previously considered a "decadent" country.

This trend toward a growing population seems to be a permanent one. The maximum rate was reached in 1947, with 213 live births per 10,000 people, after which it declined and leveled off at about 200. For the past decade the average yearly excess of births over deaths has been around 300,000, compared to an annual excess of deaths over births of 20,000 in the 1930's. The low birth rate at that time is having its effect today in the form of fewer married couples. Even so, these people are producing more children (800,000 in 1957) than their more numerous parents (who produced 620,000 children in 1931).

The versatility and resourcefulness of French women have made it possible for them to have larger families and, at the same time, to increase their contribution to the nation's economic life. Over 40 per cent of all females between the ages of fifteen and sixty-four are gainfully employed. This figure has



varied little in fifty years, but the proportion of wives who work has increased markedly. Economic need and wider choice of careers are the major factors that have brought about this change. Women have shifted away from independent and home activities toward wage work, and from factories to offices and the professions. The men have not only allowed them to hold high positions that were formerly reserved for males, but they have given them equal wages in all jobs. They have also "emancipated" them from their age-old legal inferiority, and the expression "the wife owes obedience to the husband" no longer appears in the Civil Code. Furthermore, wives now have the same rights as single women with regard to their own property, unless their marriage contracts (whose number continues to decline) make specific provisions to the contrary.

The average French housewife now has more time and a greater inclination to modify her traditional prejudices than her husband. Labor-saving devices, new food and textile products, and the latest medical wonders are convincing her that the old ways of doing things are no longer the best ways. Permanent waves and hair-dyes have given her faith in modern science and technology. She is also changing her conception of child care. If she works, she readily sends her children to a nursery, and if she wants to go out at night, she may even hire a baby-sitter. This practice is completely new. So far, the few available "sitters" are not old ladies or high-school girls, but male medical students! When the French "go modern" they go all out.

## CORRECTION

With apologies, we correct errors in Stanley Cobb's article and biographical sketch in MIDWAY 7. The correct title of the article is "Comparative Anatomy of the Avian Brain." Stanley Cobb has no middle initial. He retired from teaching in 1954 and is currently an editor of the *American Journal of Psychiatry*. He received an honorary D.Sc. from the University of Maryland.



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# EXPLORING

## CHILDREN'S

# THINKING

BY LEONORE BOEHM

*At what age does a child realize that all animals are not "bow-wows"? that size is a constant? that "right" and "left" are not absolute properties?*

For more than thirty years child psychologists at the Institute of Educational Sciences in Geneva, Switzerland, have been studying children's thinking. Many of the findings, especially those of Jean Piaget and Barbel Inhelder, are important to the elementary-school educator because of the meaning they have for curriculum planning and for methods of teaching.

To learn how children's thinking develops, Piaget and his staff have been interviewing boys and girls who attend the Children's School at the institute and children enrolled at other private or public schools.

Piaget has described not only how the child thinks at various ages, but also why he thinks as he does. With his special method of investigation, Piaget reveals thought processes hidden behind the child's answers. While most methods of investigation disclose only the outcome of the child's reasoning, Piaget, through his method, has gained insight into the causes of children's reasoning, into mental mechanisms.

The investigators interview each child individually; and, once the interview is launched, each question they ask is based on the child's response to the preceding question. The investigators probe, asking many questions about the same response. Thus there cannot be complete uniformity in the questions asked or in the number of responses for each question. Unfortunately, some writers have not understood this method or its purpose and advantage.

According to Piaget, the young school child is still egocentric. Piaget does not use this term in the customary sense. To him it means that the child is not yet able to distinguish fully between himself and the rest of the world—people or things.

The small child who does not yet differentiate between the self and the non-self cannot be objective. He believes that the world appears the same to everybody and that it is and remains what it appears to him at each particular moment. To him our fragmentary and temporary perceptions are absolute, rather than dependent on time, space, and experience. He is not aware that a mountain seen from one position looks different when viewed from another position. Rather he believes that while he moved the mountain changed its shape.

Because the child does not differentiate between people and things, people remain the prototype of objects, which he perceives as having human characteristics and as being alive.

He endows the world with intentions and a sense of morals. In his view of the world there is no fortuity: he believes that

all events have a reason, a purpose, and that there are no chance occurrences. A bridge that breaks while the child is crossing does so to punish the child, who was naughty. To him everything can be explained, everything is motivated.

In the child's eyes, the world, or reality, then, is alive ("animism"), and it has the same magical powers and qualities that adults have. The moon follows the child purposefully. The wind is alive. How else could it blow? Clouds know that they move. They, too, accompany the child.

To the child, adults know all and are all-powerful. The world, to him, is man-made ("artificialism"), and its maker may be the child's father, grandfather, or great-grandfather.

In the child's view, inner experiences, feelings, thoughts, dreams, are undistinguishable from outer experiences and have the same properties that objects have ("realism"). A child who wants strawberries for supper when there are none in the house wakes up happy and satisfied the next morning: his wish was fulfilled during the night. He ate strawberries. What to us is a dream, to him is reality. There is, then, in the very young child complete confusion between the psychical and the physical order of things—confusion between psychological intentions, wishes and desires, and physical reality.

In the child's world everything must be purposeful; rather than look for true explanations the child tries to justify all happenings. Because he does not differentiate between himself and the world, he cannot search for actual temporal, causal, or logical relations but establishes cause and effect from chance occurrences.

The child's thoughts follow one another without connection or relation ("juxtaposition"). Often he thinks of two factors alternately rather than simultaneously. Pour liquid from one container to another of a different shape, and ask the child whether the amount of liquid has changed. He will tell you

that it has. Or tip the container so that the level of the liquid changes, and again ask the child whether the amount of the liquid in the container has changed. Again, he will tell you that it has.

Because he focuses his attention on one aspect, he often makes contradictory responses successively. At one time he compares only the heights of the two containers and decides that there is less liquid in the shorter one. Soon afterward he compares the widths, forgetting the heights, and decides that there is more liquid in the wider container. Thus he misjudges the amount of liquid both times.

The child cannot distinguish related parts from the whole; he sees them as independent of one another and of the whole. For example: if the child is told that all apples and pears are fruit, he believes that all fruit are either apples or pears. The child whose first furry, four-legged animal is called *bow-wow* by his elders is likely to think that all other furry, four-legged animals are *bow-wows* and so calls them until his elders teach him to distinguish between furry, four-legged animals that are *bow-wows* and furry, four-legged animals that are *meows* or *horsies* or *moo-moos*. An object, placed at the child's right, cannot in his thinking at the same time be at somebody else's left. A cow cannot be an animal and a mammal. Egocentric thought, then, is subjective, intuitive, impressionistic, non-analytic, and absolute.

In studying children's thought thirty years ago Piaget found that at the age of eight there was a decrease in egocentric thinking in regard to concrete materials or problems the child could solve by handling objects. Today, Piaget and his staff believe that modern children may outgrow egocentric thought earlier than in the past because they are exposed to many more experiences through better methods of teaching and through such media as TV and radio.

Up to the age of ten the child's reasoning is still linked to action. The child needs to look at objects. He needs to handle them. The younger the child, the more he learns through his senses. The infant learns to distinguish one thing from another by tasting, by touching, by smelling. The older child learns to distinguish by handling objects. Problems that he can solve by experimenting, he may not be able to solve on the verbal—that is, the abstract—level of thought. At ten and eleven the child thinks logically about fairly simple concrete matters even without experimentation.

A child younger than seven cannot serialize rods of differing length. Give a child the following problem: "Edith is fairer than Susan; Edith is darker than Lily. Who is the darkest of the three?" The child under twelve will not be able to answer correctly, for the question requires serialization on a formal level.

Gradually the child learns to distinguish between himself and the world, between his ideas and those of others. He gains insight into the perspective of others and realizes that his perceptions and evaluations are subjective. He "depersonalizes" the world and recognizes that many events are fortuitous. According to Piaget, reality is now "disubstantialized."

Thus the child no longer needs to justify or explain all occurrences and turns instead to a search for true cause-and-effect relationships. He realizes that the bridge did not break down to punish the naughty child: the bridge broke down because the wood had rotted. He distinguishes accidental occurrences from cause-and-effect happenings and knows that many events are unrelated to his behavior. It might rain on the day of a picnic for reasons outside himself, rather than because of his mischievous doings. He distinguishes right from wrong and accidental mishaps from intentional ones, being

now more concerned with the motivation behind an action than with its consequences.

Thus he no longer thinks in absolutes. He realizes that the world is a world of relations, and he recognizes interrelatedness where it exists ("disubjection of causality"). He can form concepts about the world. He sees general principles and establishes an integrated system of thought, a coherent reference system.

Because the child can now find common elements in given factors, he can classify; he can distinguish between higher and lower elements of given factors and build hierarchies. He understands that, while apples and pears are fruit, all fruit are not apples and pears. He realizes that, while apples and pears can be eaten, not all fruit can be.

He can differentiate ordinal and cardinal classes and establish series, relating corresponding elements.

His thinking has become logical because he has learned to check his hypotheses by reversing his thought processes. To use again the example of the containers, the child can now mentally pour the liquid from the second container back into the first and come to the realization that in spite of the appearance the amount of liquid is unchanged. Nothing has been added, nothing has been removed. This reasoning has become an "operation," which Piaget defines as an internalized mental action. To the reality that he perceives with his eyes, the child adds elements of mental construction that cannot be perceived because they are not concrete and thus are elements of abstract thinking.

When the young child watches sugar dissolve in water, he assumes that the sugar becomes extinct because he can no longer see it. Later he comes to realize that the sugar could not have disappeared; it exists in particles too small to be seen. When a kernel of corn pops in a burner, he understands that



it increases in size only; in spite of appearances it cannot increase in corpuscular volume.

Throughout adolescence this type of thinking—that is, abstract thinking—develops further. Piaget calls it “formal operation.” The adolescent’s thinking becomes more and more independent of the concrete world, of his perceptions, and instead of reasoning about concrete things, he forms “mental constructs.” Because the formal operation is completely mobile and reversible, all assumptions can be tested mentally. The system of thought of the older adolescent is a coherent structure, an integrated system. He no longer depends on his past experience. Now he can anticipate events and their consequences: he can use foresight. He enjoys meditating on theories and postulates.

Let us examine a few examples of development in the power to reason. Our examples will be drawn largely from the field of physics, especially the concept of “invariance” or “invariability”—the idea that a substance or an amount to which nothing has been added and from which nothing has been removed remains unchanged in weight or quantity.

The concept is not part of the thinking of the young child. As far as he is concerned, if the appearance of an object changes, if the shape changes, quantity and weight also change.

As long as the child focuses on the most obvious phenomenon—be it the height or the width of the vessels mentioned earlier—so long as the child can think of only one aspect at a time, he does not understand the principle of the preservation of matter, the “invariability” of substance. In the example we are using, he must learn to consider both the height and the width of the containers and their relationship to the amount of liquid in them. He must free himself from his illusory perceptions and take less conspicuous factors into consideration.

Not all features of invariability are grasped at the same age.

At seven or eight years of age the child knows that when nothing has been added or taken away substance and quantity remain the same regardless of appearance. At eight or nine the child is aware of the constancy or duration of space and time in their simple aspects. At nine or ten he knows that, if nothing has been added or taken away, weight remains unchanged, in spite of a change in appearance, and at eleven or twelve he understands the constancy of volume.

Give a child younger than seven or eight years of age two containers of the same size and shape. Let him take one bead in each hand and drop the beads into the two containers at the same time. Let him continue in this way till all his beads are in the containers. Then ask the child to transfer the contents of one container into a third container that is different in shape from the other two. Noting the difference in shape, the child believes that the quantity of beads has changed, too. He focuses on only one aspect of dimension, the level of the beads in the third container, and his perception tricks him. He does not realize that the number of beads remains unchanged. He does not know that when nothing is added or subtracted a quantity remains unchanged. It does not occur to him to test his thinking or perception by reversing his procedure—by actually putting the beads back into the first container or by carrying out this reversal mentally.

Up to the age of seven the child does not perceive size as constant. If the child places two rods of the same length side by side and then lets one protrude, he does not understand that the rods remain equal in length, nor does he understand why. The concept of seriation of sizes is achieved at the age of seven or eight. Children of this age can arrange a number of rods of different sizes according to length.

Place before a child younger than nine years of age two lumps of clay that are equal in weight. While the child watches, change

the shape of one of the lumps, and the child will think that the lumps no longer weigh the same. He will explain that the weight of the lump has changed because the second lump is longer or shorter.

Ask the younger children whether the substance of the two lumps has changed, and they will tell you that it has, again pointing out as evidence that one lump is shorter or longer than the other.

Place two lumps of clay in water, and change the shape of one lump. The child under eleven or twelve years of age believes that the volume has changed. Ask him why, and he will tell you "because the second lump is shorter (or longer) than the first one."

The child understands the concept of invariability or constancy or permanency of matter only when he realizes that he can reverse the procedure of the experiment to reproduce the original quantity, shape, weight, or volume.

Because the young child thinks in absolutes and focuses his attention on one factor, he cannot consider the relationships of two classes or the relationship of the subclass to the whole class or of the parts to the whole. He thinks of parts as independent of one another and of the whole. When he considers the whole, he cannot distinguish its parts.

One problem Piaget gave children will serve as an illustration. Piaget placed many brown beads and a few white beads before a child. The child recognized that all the beads were wooden. Piaget then separated the beads into two unequal groups according to their color and asked the child, "Which will make a longer necklace—the wooden beads or the brown beads?" Up to the age of seven the children who were asked the question insisted repeatedly, "The brown ones." They made this response even when they were reminded that all the beads were wooden.

This is an example of perceptive illusion: the color of the

beads is more obvious to the children than the substance of the beads. In Piaget's terms, the children "center" their attention on one factor alone, in this case, color.

Also, as we have seen, children cannot form inclusions. They cannot think: brown wooden beads plus white wooden beads equals wooden necklace. They do not yet heed the part-whole relationships but consider only the parts.

The seven-year-old Genevan child knows by rote that Geneva is in Switzerland, but he does not understand the spatial part-whole relationship. Probing questions reveal that he thinks he can be Genevan or Swiss but not both. Only between the ages of ten and eleven does a child grasp that Geneva is part of Switzerland.

Position in space is relative. Boston is north of New York. But New York, though south of Boston, is north of Washington, D.C. The child finds it difficult to understand these relationships in space.

Indeed, the child finds it difficult to understand space at all. Actually he does not believe in its objective existence but thinks that it disappears when he does not see it any longer. For a very young child riding on a train, scenery that disappears no longer exists, just as a watch hidden under a pillow before the baby's eyes ceases to exist for him.

Before children can understand spatial position, they must be free from personal, subjective perceptions and capable of co-ordinating spatial relationships.

The seven- or eight-year-old child has learned to distinguish between right and left from his point of view, but he still believes that "right" and "left" are absolute properties. He does not realize that "right" for him is not the same direction as "right" for someone facing him.

After he has learned which of two objects is to the right and which to the left—that is, to his right and his left—he still does

not recognize the relationship of the two objects to each other in respect of right and left. When he is about eleven or twelve years old, he can relate three objects to one another. He understands that the middle one is left in respect to the one object and right in respect to the other object.

Seven- and eight-year-old children were shown a view of three mountains of different shapes and heights made of cardboard and standing next to one another. Then the children were shown several drawings of these mountains sketched from various perspectives. The children were asked to place a paper doll at points where the dolls could view the mountains from each perspective shown in the drawings. The children were unable to put the dolls in all the appropriate positions. They were able to place a doll so that it could look out on their own view of the cardboard mountains. Older children realized that the dolls' perspectives differed from their own but still could not analyze the relationships of the three mountains to one another.

At ten and a half years the child co-ordinates all the spatial relationships involved and achieves a true "decentration" because he pays attention to all possibilities, looking at the pictures from the point of view of the dolls and from the point of view of the three mountains.

Understanding of space develops gradually, as we have seen. The child must conceive of space as an orderly arrangement, consisting of an orderly distribution or expanse which is invariable, that is, permanent.

Children younger than eight or nine cannot grasp the idea of velocity, because it involves both distance and time. Usually the child must be at least twelve before he can solve the more complex problems in this area.

Perception of time and distance is misleading even to adults, for personal experience does not create the feeling that time and

distance are permanent. Time flies, and space passes. For the child not yet eight years old space is variable, impermanent; there is no orderly arrangement within space, no systematic relation of distances. When the child describes the buildings he passes on the way to school, his favorite buildings—like the candy store—seem to be much closer to home than they really are. All of us know how personal the flow of time is. An hour spent listening to a boring lecture seems longer than an hour spent looking at an interesting show. With the child an hour of rest time seems longer than an hour of play time.

Time must be regarded as an evenly flowing principle of chronological order, common to all, in which a succession of events occurs.

Velocity involves time, space, and movement. Time must flow evenly regardless of distances covered at different speeds. To understand movement, spatial order must be recognized, for movement is displacement in space covering a succession of intervals or distances.

Piaget's subjects had great difficulty relating time and space when they were solving problems on movement. The children focused on time or on distance but were unable to consider time and distance simultaneously. The idea of "before" and "after" in time created confusion with the "before" and "after" in space. In the experiment child and investigator walked a certain distance and dolls were moved through an unequal distance at the same speed or through the same distance at unequal speed. Children younger than seven or eight years of age thought that two people who arrived at the same point together must have walked at the same speed even though they had moved an unequal distance. Or the children believed that the person who had covered a shorter distance at the same speed and arrived sooner must have walked more slowly. The concept of velocity cannot be understood without "mental opera-

tion," which integrates two systems of reference—time and space.

Many of the concepts we have discussed are necessary in the sciences—such concepts as permanence of quantity, of size, of weight, of volume. These concepts, as we have seen, develop gradually from about six to twelve years of age. The concepts begin to develop at different ages, and they are grasped at different ages.

In the beginning school years, the young child perceives the world egocentrically and does not understand physical causality. At six or seven years of age the child has no true concept of time and space, of geographical relations, of past and future. Yet in many countries the curriculum and teaching methods fail to take this fact into consideration. School programs and teaching practice are not related closely enough to intellectual growth.

Five- and six-year-olds are often provided with school experiences designed to give them an understanding of distances and the relative speeds of walking and riding. Children of this age are given other experiences designed to teach them the meaning of weight and measurement, the meaning of relationships between the whole and its parts, the meaning of time. Historical events are discussed before the child understands present time, before he is ready to understand the past. Foreign cultures and remote geographical regions are studied before "far away" can be meaningful to the child, before he can understand the invariability—that is, the permanent organization—of space. Maps are shown to children at a stage in their development when a flat map cannot create a true picture for them.

The greatest change that is needed seems to be in the teaching of mathematics. Because many children have found this subject difficult, schools in many countries have changed their teaching techniques. In many nations the study of mathematics

used to start with number symbols. Now in early mathematics lessons the children count—first things and later pictures of things. Place-value charts are used to create an understanding of digits. Flannel boards are used to clarify the meaning of fractions and their comparative value. Some schools no longer teach mathematics directly in the early grades but use calculations in connection with the sciences whenever the need arises for counting and measuring.

True, children are more interested in calculating for a purpose than in calculating for the sake of learning. Yet nothing seems to reduce the number of failures in mathematics. All our tricks cannot provide understanding of general principles before the child's intellectual development has reached a point that will permit him to grasp them.

From the research of Piaget and Inhelder we know that a young child does not understand the cardinal value of a number, that is, the different possible combinations that will result in a given amount, nor does he understand the ordinal position of a number in a series. To the very young child, the amount seems to depend on the order of the objects. When he counts objects from right to left and then counts the same objects from left to right, he is surprised that the result of the two counts is the same. At the age of six he does not understand why this must be so.

The processes of adding and subtracting cannot be clear until cardinal and ordinal concepts are understood, and this understanding develops at about seven and a half years of age. Before then digits and class inclusions are also beyond the child's grasp. As we have seen, the child does not reverse his manipulations to test his hypothesis; he does not separate a sum into its elements; he cannot establish relations beyond the one-to-one correspondence. When the appearance of a collection of objects changes, he thinks that the quantity also changes. According to Inhelder's



research, one out of four children six and a half years of age still believed that if you moved objects closer together or farther apart you changed the number of objects. These children believed that beads increased in number when they were spread apart. Take a number of eggs and an equal number of egg cups. Push the cups farther apart or move them closer together and the number of cups is no longer the same as the number of eggs. So the children thought.

Despite what Piaget's research shows about children's thinking, in many countries addition and subtraction up to one hundred are taught in second grade, and multiplication as well as short and long division are taught in the third year of school.

Thus we often force the child to learn by rote or by manipulation lessons that come too early to impart an understanding of principles, too early to give the child insight.

Experiments and manipulation are excellent when the child is ready to understand them. Inhelder has found that children who are introduced to manipulation at an early age form basic arithmetico-geometrical ideas more easily. If, however, experimentation is introduced before the child can generalize, he will not gain insight. Given an appropriate experiment at the suitable age and not earlier, children can come to understand the concepts of invariability more easily, move through the stages of mathematical development faster, and deduce general principles more readily. In a study of the mathematical development of children from nine to eleven years of age, Inhelder discovered how much learning occurred while her subjects experimented with the materials presented to them. Manipulations greatly aided their insights at that age.

Basic geometrical concepts depend on an understanding of spatial relationships. Only when the child has liberated himself from subjective perceptions can he see the relativity of spatial positions. However, perceptions of spatial configurations are

only the first step toward understanding of geometrical concepts. The concrete, specific character of spatial configurations impedes true mental operation and easily makes thinking about geometrical problems rigid. Perception alone—without liberation from the particular constellation—is irreversible, immobile, and static. Attention given to a certain spatial configuration limits thinking to the specific “picture” in view. A picture, a concrete perception, cannot be reversed; hence it encourages rigidity of thinking.

To think abstractly and to form generalizations, a person must lose his dependence on a concrete perception or representation. This liberation from the specific allows for mobility within the configuration. It makes mental displacement of the elements possible.

This mode of thinking—that is, conceptual reasoning without concrete materials—is typical of the adolescent. His thought is no longer a mere reproduction or an internalized image of reality but has become a reversible mental construct.

We educators face the problem of recognizing the kind of thinking the child is capable of at certain ages. Studies like those of Piaget help us realize the complexity of intellectual development. We have often assumed that a child could solve certain problems because he was able to solve others that appeared equally difficult to us. Searching for the causes behind the child’s reasoning, Piaget shows why some problems require a more advanced mechanism of thought than others. Piaget’s conclusions on the development of logical thinking and its specific forms at different levels ought to be of help to teachers in choosing methods of presentation. Piaget’s findings may help curriculum-builders envision desirable changes, particularly in teaching the physical sciences, mathematics, geography, and history—subjects in which postponement of some areas seems desirable.

# POEMS

*By Isabella Gardner*

## LITTLE ROCK ARKANSAS 1957

*Dedicated to the nine children*

Clasping like bucklers to their bodies, books,  
nine children move through blasts of killing looks.  
Committed to this battle each child dares,  
deliberately, the fusillades of jeers.  
Their valor iron in their ironed clothes  
they walk politely in their polished shoes  
down ambushed halls to classrooms sown with mines  
to learn their lesson. Obviously nine's  
a carefully calculated number, odd  
not even, a suave size that can be add-  
ed to, discreetly, later, or culled now  
should one child break not bend; or fail to bow  
sufficiently his bloody head . . . a rule  
to heed, child, be you black and going to school.

## SUMMER REMEMBERED

Sounds sum and summon the remembering of summers.

The humming of the sun

The mumbling in the honey-suckle vine

The whirring in the clovered grass

The pizzicato plinkle of ice in an auburn  
uncle's amber glass.

The whing of father's racquet and the whack  
of brother's bat on cousin's ball  
and calling voices call-  
ing voices spilling voices . . .

The munching of saltwater at the splintered dock

The slap and slop of waves on little sloops

The quarrelling of carlocks hours across the bay

The canvas sails that bleat as they  
are blown. The heaving buoy bell-  
ing HERE I am

HERE you are HEAR HEAR

listen listen listen

The gramophone is wound

the music goes round and around

BYE BYE BLUES LINDY'S COMING

voices calling calling calling

"Children! Children! Time's Up

Time's Up"

Merrily sturdily wantonly the familial voices

cheerily chidingly call to the children Time's Up

and the mute children's unvoiced clamor sacks the summer air  
crying Mother Mother are you there?

## A LOUD SONG, MOTHER

My son is five years old and tonight he sang this song to me.  
He said, it's a loud song, Mother, block up your ears a little, he  
said wait I must get my voice ready first. Then tunelessly  
but with a bursting beat he chanted from his room enormously,

strangers is my name  
strangers all around me  
strangers running toward me  
strangers all over the world  
strangers running on stars

A deafening declaration this jubilant shout of grief  
that trumpets final fellowship and flutes a whole belief.  
Alone and in the dark he clears his throat to yawp his truth  
that each living human creature's name is Ruth.  
He sings a world of strangers running on the burning stars  
a race on every-colored feet with freshly calloused scars.

Our stark still strangers waited back of doors and under beds  
their socket eyes stared at us out of closets; in our heads.  
We crawled on hob-nailed knees across our wasted starless land  
each smugly thinking his the only face that wore a brand.

Sons, may you starve the maggot fears that ate our spirit's meat  
and stride with brother strangers in your seven league bare feet.

# Assyriology

## WHY? AND HOW?

By A. Leo Oppenheim

*A discussion by an expert  
on the ancient cuneiform texts,  
with a brief historical report  
on findings in the field.*

It is now well over a hundred years since western European scholars succeeded in discovering the key to the writings that two long-vanished Near Eastern civilizations left behind. These writings are the hieroglyphic inscriptions on Egyptian buildings and objects, and the inscriptions, composed of cuneiform elements, on clay tablets and on stone and metal objects found in and around today's Iraq.

Ancient Egypt was always a strange, a curious country, exciting much interest and fascination in the minds of its neighbors. For nearly two millennia after its disappearance as a political and cultural force (under the Ptolemies, 342 B.C.), the inscribed and decorated walls of the unique and impressive ruins in the Nile Valley were successful in keeping alive some memory of the ancient Egyptian civilization. Thus when the fantastic Egyptian adventure of Napoleon and the quick decipherment of the Rosetta Stone by Champollion threw open the buried civilization of Egypt and its ancient sites to the



*Tablet No. 4 of a Sumerian-Akkadian dictionary, in a copy found in southern Babylonia and dating from the Seleucid period (about the second century B.C.). The work itself was probably composed in the first half of the second millennium B.C.*

inquisitive eyes of European scholarship, a new world of undreamt-of complexity emerged. The historic vista of man and his adventures was "pushed back" by many centuries beyond the point reached by the Classical sources and the Old Testament.

Mesopotamia, however, the land between the two rivers, the Euphrates and the Tigris, was not nearly as fortunate as Egypt. There were no walls inscribed with mysterious and beautifully executed signs, hardly any precious objects to be collected as curiosities, nothing but a few high, isolated, and dilapidated brick towers to which clung the name and the fame of the Biblical Tower of Babel.

Only by the towering stone columns of Persepolis in the highlands of southern Iran could the attention of European travelers be eventually attracted; inscriptions in an unknown writing found there excited their interest, and this led eventually to the decipherment of the cuneiform script that appeared on these stones and also on the large rock inscriptions of that region. Among these texts were inscriptions in a hitherto unknown language, and many more such documents were soon found all over Mesopotamia and the adjacent regions. The decipherers called the language "Assyrian." After a time it became evident that there was an Assyrian and a Babylonian dialect—we now refer to both as "Akkadian"—but the name "Assyriology" was retained for the field of study that deals with that language and its numerous dialects, all written with cuneiform signs on clay, stone, or metal.

In the heroic period of the science of Assyriology, which lasted until the last quarter of the nineteenth century, the various systems of writing using cuneiform signs were deciphered, the main content of the inscriptions was established, and the spades of the busily competing excavators attacked many of the principal sites, which began to yield objects of



copper, silver, and gold, statues and fascinating reliefs, as well as the remnants of large-scale architecture. Since then, an abundant and steady stream of documents inscribed on clay has been coming to light everywhere from the Persian Gulf to Asia Minor and even as far off as Cyprus and Egypt.

The record of achievement is impressive indeed. The decipherment led to the development of a series of new disciplines concerned with the study of the civilizations that either had made use of one or more of the several systems of writing or have become known through them. Here one has to mention Sumerology, Hittitology, and Elamitology, and to point out the study of the Hurrian and the Urartean languages as well as that of the remnants of the languages of early Asia Minor. Essential contributions were made by all these disciplines towards the understanding of the background and the surrounding world of the Mycenaean, Old Testament, and even the Egyptian civilizations. Finally new vistas were opened up by the archeology of the ancient Near and Middle East, which owes much of its success to the stimulus of the study of the textual materials.

In Assyriology proper, to return to the focus of this presentation, the textual evidence surpasses in meaningful relevance that of the monuments discovered, although the latter, especially the famous reliefs on the walls of the Assyrian palaces and the countless products of the glyptic art, often offer welcome illustration to the wealth of factual information contained on clay tablets, stelae, and votive offerings. The archeologist's contribution towards the elucidation of the Mesopotamian past bears primarily on that crucial millennium or more which precedes the earliest written documentation (i.e., before 2800 B.C.), and which only the field and comparative archeologists are able to scan and to articulate through their intricate network of horizons and sequences. In exceptional

instances, however, and in small sites, the interplay of the archeologist and the epigrapher can yield in Mesopotamia important results.

The cuneiform texts have given us a strangely distorted picture of the more than two thousand years of Mesopotamian civilization. It is composed of a complex medley of abundant but very spotty detail information, and of rough and incomplete outlines of the major political and cultural developments. All that is torn to shreds by immense accidental gaps in time and space. It requires much patient and mostly rather hazardous work on the part of the philologist to hold these shreds together by a criss-crossing web of connections based on slim textual evidence. He has to link minutiae to minutiae, to analyze and to correlate a highly reluctant material in order to gauge developments and to trace their trends through the ever recurring blackouts of information.

Thus we have come to know the names of hundreds of kings and important personalities from the third-millennium rulers of Lagash to the kings and scholars of the Seleucid period; we are able to follow the fate of dynasties and the personal fortunes of certain rulers, to observe the rise and decay of cities, and discern, at times, the settings of the geopolitical situation within a chronological framework that is becoming more and more reliable even for the earlier periods.

We now have at hand a number of codified laws from the Sumerian to the Neo-Babylonian period that can be related to a staggering amount of private and public legal documents and illustrated by an equally extensive body of letters and administrative texts. This, in turn, has enabled the Assyriologist to realize period and local differences, to observe changing social and political contexts, and has provided him thus with new and unexpected opportunities. No other early civilization offers

material on its economic history with such abundance and for such a long period of time.

Then there has been preserved a considerable body of texts that are customarily labeled literary. We have one full-length creation story and a bevy of shorter ones, the rightly famous Epic of Gilgamesh in a late and very sophisticated version together with a number of earlier fragments from all over in and around Mesopotamia, and several tales about gods and heroes of divine extraction, their exploits, triumphs, and sufferings often, but not always, harking back to earlier Sumerian prototypes. Their alluring contents, and the obvious relationship of these stories with the thematic inventory and even with specific incidents of myths known from neighboring civilizations, have given special importance to these texts in the eyes of the Assyriologists and in those of the scholars concerned with these civilizations. These texts have evoked far more interest than the literary texts of religious content, such as the numerous prayers, conjurations, lamentations, etc.

Still farther in the background of the attention of Assyriologists and outsiders alike remains the immense bulk of the learned literature in cuneiforms. It consists primarily of the writings of several types of diviners, the handbooks of the Mesopotamian scholars ranging from Sumero-Akkadian dictionaries to learned commentaries and theological speculations. Only a handful of Assyriologists has ventured into these realms, dry, monotonous, and difficult of access as they are.

Assyriology is definitely an arcane [hidden] discipline. Behind a façade of painfully inadequate popularizing presentations written for the interested but innocent outsider, a small group of courageous workers labors in an ever enlarging field of research. Either in self-imposed concentration on a specific section or direction of approach, or compelled into such restrictions by the sheer bulk of the available data, these few scholars

have been at work now for nearly a century. Under such circumstances, one may well ask the question as to where we stand today in the process of interpreting, correlating, and digesting textual evidence, archeological findings, and monuments. Can we determine in some way whether the work that has been going on for such a long time in the universities of Europe, America, and Asia made adequate use of that unrepeatable intellectual experience which fate offered Western scholarship through all these inscriptions?

To answer this, I would like to establish here what these tablets meant to those who wrote them, and not assign them importance, meaning, and literary qualities derived, consciously or not, from our own culture-conditioned preferences. And then there is another problem: what can these tablets possibly mean to us of a late and alien civilization to whom they were not meant to speak?

What tablets we have from Mesopotamia can be easily divided into two main categories. There is, first, the large number of texts belonging to what I would like to term here "the stream of tradition": they represent what can for convenience be called the corpus of literary works of various types that was maintained, controlled, and carefully kept alive by a tradition served by successive generations of learned and well-trained scribes. Then, second, we have the mass of texts of all descriptions united by the fact that they either recorded the day-to-day activities of individuals, whether shepherds or administrators, merchants or diplomats, or reported on such activities to some authority, whether priest, king, or—god.

Both these streams run, of course, side by side, with only limited but essential contacts: the texts of the second group could never have been written without that cultural continuum maintained so effectively by the tradition.

In the texts of the stream of tradition we have a body of

literature which a class of scribes, organized in some loose way in local schools or in more or less fictitious families, considered its duty to copy and to recopy faithfully, thus keeping the chain functioning for nearly two millennia. This concept in itself represents an important culture trait of Mesopotamian civilization. One would expect the driving impulse for such a persistent attitude to be the desire to preserve a body of religious writings, or the wish to sustain one tradition against the opposition of, or in competition with, rival traditions.

However, in Mesopotamia we are confronted, not with ideological pressures, but with a purely operational and highly effective device: it was considered an essential part of the training of each scribe for him to copy faithfully the texts that made up the stream of the tradition. The longer and more elaborate the training of a scribe was, the more extensive became the copying work he was supposed to do. This led quite naturally to the accumulation of a large number of private collections of tablets, each containing larger or smaller sections of the text material that made up the stream of tradition.

In this way, a number of scribes, widely scattered throughout Babylonia and Assyria, became owners of these literary texts which they had copied themselves during their apprenticeship or out of personal interest. Consequently, copies of the very same texts were kept in many different localities, and this, combined with the fact that the writing was on extremely durable clay tablets, maintained the major bulk of the texts from the second half of the second millennium B.C. up to the periods of the Seleucid (312-129 B.C.) and even the Arsacid (Iranian) (129 ff. B.C.) rulers of Mesopotamia as a literary corpus in actual use, and subsequently kept them safe for us in the rubble of destroyed cities for two more millennia.

Most likely it will forever remain a moot question to what extent the corpus of texts under discussion remained unaffected

by changes during such an extended period of continuous transmission. Have certain texts intentionally been discarded, or have others succumbed by a variety of accidents to the ravages of time and men? We know that all major and minor Mesopotamian cities were repeatedly and often quite effectively destroyed by enemy action, also that the water table has been rising in lower Mesopotamia and that a sizable number of old cities are still inhabited today and therefore inaccessible to the spade of the archeologist.

These potential and actual losses are counteracted to a certain extent by lucky accidents: clay tablets are known to have been used as fill and entire archives to have thus been preserved, while certain sites happened to remain undisturbed when both victor and vanquished left the ruins to be forgotten and covered by dust and vegetation. While we must realize that we are to a large extent at the mercy of chance, we still have the duty to evaluate the possibility that certain selective manipulations may have interfered with the handing down of the traditional texts, or that new material may have been incorporated.

This problem is extremely difficult, and no clear-cut solution should be expected. There exists, however, the definite possibility of approaching it in a rather promising way.

It so happens that the last great Assyrian king, Ashurbanipal (669-626 B.C.), succeeded in assembling in Nineveh what has every right to be called the first systematically collected library in the ancient Near East. Large sections of the tablets that made up this collection are now kept in the British Museum, London. Many of them are published or reasonably well catalogued, and we have a good idea about the contents of nearly all these texts. Although the library was not that of an individual scribe or even a school or family, but, rather, was brought together upon a royal fiat from all over Mesopotamia, we are entitled to assume that the topical range of Ashurbanipal's col-

lection is representative of the main body, if not the entire content, of the scribal tradition. . . . There exist, of course, the inevitable discrepancies and gaps. The laws of probability militate against the preservation of small text groups, and work havoc even with larger ones. In view of the fact that less than one-fourth of the body of traditional texts has been preserved, and then only too often in rather poor condition, and in view of the selection that is produced by the accidents of survival, of discovery, and—not to be underestimated—the accidents of publication, the picture of an over-all unity that results from the observation of a number of well-distributed collections entitles us to speak of the literary tablets of Mesopotamia as belonging to a coherent and continuous stream. When Assyriologists will be able to follow the fate of individual text groups through the history of their tradition, they will obtain more insight into the workings of this “stream” and, conceivably, light will be shed some day on ideological preferences and other attitudes that neither the content nor the wording of these texts is likely to reflect directly.

One more point bearing on the “stream of tradition” is to be discussed: what is the size of this body of texts?

The salient characteristic of all collections is the predominance of scholarly over literary texts, and, within the scholarly texts, the predominance of texts which the Assyriologists call “omen texts.” Such omen collections consist of endless, systematically arranged one-line entries, each describing a specific act, a well-defined event, or the behavior or feature of an animal, a specific part of its body, of a plant, of a human being, also the movements of stars, the moon and the sun, atmospheric events, and other observable details of unbelievable variety. Each case is provided with a prediction that refers to the welfare of the country or to that of the individual with respect to whom, so is the basic assumption, the event happened, or

for whom the observation was made if it was not purposefully provoked to obtain information about the future.

The library of Ashurbanipal contained more than three hundred tablets, each holding 80 to 200 individual entries of the nature just described. Next in size seems to have been a group of about two hundred tablets of a quite different nature. These contain lists of cuneiform signs and sign combinations with added readings, and also lists of Sumerian words with their Akkadian translations, organized according to various principles of arrangement and representing to a large extent what may be termed a dictionary. They further include lists explaining rare and foreign expressions in Akkadian. In short, this group of tablets embraces in an encyclopedic form everything required for teaching scribes the native (Akkadian) and the traditional (Sumerian) languages. The bilingualism of the scribes is reflected in a large number of Sumerian incantations and prayers that are provided with interlinear Akkadian translations. The latter form a group that seems to have amounted to more than one hundred tablets. About the same number of tablets contain cycles of conjurations for cathartic and apotropaic [designed to avert evil] purposes, as well as what is customarily called the "epic literature," fables, proverbs, and sundry small collections of varia and trivia that somehow have found their way into the body of "canonical" texts. For reasons that will become clear presently, one should stress that the epic literature (such as the Creation story, the Epic of Gilgamesh, of Irra, the stories of Etana, Zû, etc.) amounts to only thirty-five to forty among the seven hundred tablets so far enumerated.

The existence of about two hundred tablets more can be inferred with varying degrees of certainty from isolated fragments and other indications, such as catalogues of tablets, etc. As a safety margin dictated by a general pessimistic attitude



rather than by rational considerations, one may add one-third again to these nine hundred tablets in order to achieve something like an informed guess at the total number of tablets kept in Ashurbanipal's palace at Nineveh. One may perhaps—but not necessarily—assume that a further projection beyond this twelve-hundred-tablet estimate should be hazarded, so that the figure fifteen hundred would represent, as a maximum, the entire body of cuneiform literature that included, at any time or place, part of what we are calling here the stream of tradition.

To venture further guesses, such as to the number of lines which these tablets may have contained, is sheer folly, but there is not too much doubt in my mind that the sum total would leave the Rig-Veda [a sacred book of Hinduism] (about the size of the Iliad) and the Homeric epics, as well as the Old and New Testaments (which surpass the epics only slightly as to the number of verses), far behind, and would probably reach, if not exceed in bulk, even the size of the Mahabharata [an Indian epic] with its 190,000 verses.

It now behooves us to outline what should be considered the characteristic features of this corpus of texts, surveying it without the professionally myopic outlook of the Assyriologist.

First one has to point out that nearly all these twelve hundred or more tablets were at some early point in their history frozen into a specific wording and an established arrangement of content. This process of standardization began quite early (third quarter of the second millennium B.C.) for certain key text groups—especially those of the encyclopedic genre. It continued, successively affecting other groups, up to the time when the scribes of Ashurbanipal assembled and copied individual tablets or small groups that had been in restricted circulation, and combined them into topical arrangements, giving them definite titles and indicating their sequence by numbers.

The standardization effectively maintained the original con-

tents against the pressures of changing concepts and attitudes, preserving obsolete text material that would otherwise have certainly disappeared. For the Assyriologist this standardization is the greatest boon. Normally, all he has to work with are shattered fragments of tablets that come from several excavations and accidental finds, which more often than not contain lines that break off in the middle of the text, or which contain only beginnings and ends of lines. But due to the fact that nearly all identifiable fragments, wherever they come from, go back to one standardized version, the Assyriologist is often able to reconstruct an entire text out of small fragments.

The contents of all these tablets of the stream of tradition clearly indicate that the cuneiform literature which the Mesopotamians themselves considered essential and worthy of being handed down concerned directly or indirectly the activities of the diviners and of the priests specializing in exorcistic techniques. Only a very small section contains what we, immersed in the Western tradition, like to call products of literary creativeness. One may, in fact, reasonably estimate to be fifty or sixty, at most, the number of tablets that contain what we are wont to call epic texts, including fables and rather platitudinous concoctions of practical "wisdom," as well as some tablets with prayers, etc., whose diction and imagery seem to us to be distinguished by a certain tang of genuineness, though it is open to some doubt whether this quality was instrumental in their inclusion into the stream of tradition.

The epic texts make a strong appeal to the aesthetic tastes and ideological preferences of the Western cultures, steeped as these are in the literary and the religious traditions that originated in Greece and in the habitat of the Bible and were transposed into a new key in medieval Europe. This has induced us, consciously or not, to make two obvious mistakes: we have been exaggerating the importance of such texts, al-

though they are only few and far between in the Mesopotamian literature, and we are judging the main bulk of the tradition on the basis of the lack of texts which we are conditioned to appreciate.

There is a noticeable absence of historical literature, in the sense that texts are lacking that would attest to the awareness of the scribes of the existence of a historic continuum in the Mesopotamian civilization of which they themselves and their tradition were only a part. To be sure, there are preserved a few late chronicles, a number of copies of very old royal inscriptions, a small group of texts that contain legends of early kings, and theological interpretations of sundry historic events of the pre-standardization period. Nothing, however, was considered worthy of recording that would relate the literary and intellectual traditions in and for which these scribes lived, with any co-ordinates of time, space, and socioeconomic realities.

The same detachment expresses itself in the complete absence of any polemic in this type of literature. All statements appear without relation to any background of ideological, religious, or even political stress or tension. This is not for lack of opportunity, because the ritual complaints in the prayers written or adapted for royal use, or the predictions in the innumerable omen passages, could easily reflect discontent, social criticism, etc. Such tensions are very much in evidence in Greek texts, where they are further accentuated by the didactic style of scholarly presentations. There was apparently no rivalry between schools nor clash between the Mesopotamian scribe's cultural outlook and that of those who lived around him, either in his own country or elsewhere. It is especially the latter contrast that imparts a very specific mood and intensity, in the Old and the New Testament, not only to pragmatic utterances but even to descriptive passages. The person of the scribe, his beliefs and ambitions, are conspicuously absent in cuneiform

literature; no cognizance is taken of religious or philosophical insights; no constructive political thoughts are revealed, nor any awareness of man's role and pretensions in this world.

The explanation for all this is quite simple. What we have at hand in these twelve hundred or more tablets is but a reference library geared to the needs of the diviners and those specialized practitioners of magic who were responsible for the spiritual security of kings and important persons. To this were added several sets of handbooks for educational and research purposes, meant to maintain the scholarly standards and the technical proficiency of these essential professions. By accident and hardly for what we would call their merits, literary texts were carried along in the stream of tradition as part and parcel of the education of the scribes simply because the copying of such texts belonged to the traditional curriculum.

The corpus has to be understood, appreciated, and utilized solely in terms of what it was meant to represent for those who created, maintained, and used it. And the literary texts have to be considered primarily from the point of view of their own position of importance within the stream of the tradition.

The Assyriologists, however, always did, and still do, approach them from a quite different angle. They look for deeply meaningful cosmologies, for primeval wisdom, for the pomp of mythological exploits, the charm or crudeness of "early" social and economic patterns that supposedly reflect the growth of ideas beyond the ken of history, for legends and "historiae" and titillatingly different mores—in short, for what Western scholars in the "study of man" ever since Herodotus have expected to discover at the periphery of their own, and of course normative, world. And expectations of that sort are apparently fulfilled to judge from the books produced by popularizers concerned with the Mesopotamian civilization. Such an attitude

still today affects serious Assyriological research work in varying degrees.

There are scholars who are inextricably entangled in attempts to relate Assyriological data to the Old Testament in some acceptable way, and others who find in haphazardly collected instances, torn out of their ideological and stylistic habitat, convincing proof for whatever the fashion of the day in anthropology, the history of religion, or economics is propounding. Even linguistically, the cuneiform texts have not been allowed to be subjected to candid and unbiased investigation. Having been, quite early and correctly, tagged as a Semitic language, the Akkadian was, and still is, mercilessly put on the procrustean bed of this or that other Semitic language that is whimsically considered normative.

Quite often this is done, not out of methodological considerations or on account of the objective range of the scholar's interest, but for reasons which seem rather to originate in a quest for a *raison d'être* for the entire field of Assyriology, not only in the eyes of other disciplines but also in those of the scholars themselves. This psychological situation has yielded, and still does yield, a number of specifically biased articles or even books, which can usually be recognized as such.

Let us return to the literary texts of the stream of tradition. Any evaluation of them with respect to topic inventory and style types should bear in mind that there exists meager, but unquestionable, evidence for a rich and productive oral literary tradition in Mesopotamia. It seems to have flourished not only before the period in which the standardization, or "canonization" of the written tradition became effective but also parallel and subsequent to it. We know, for instance, of the existence of cycles of songs, mainly love songs, that were cast, in the fashion of the ancient Near East, in a specifically intense and

quasi-religious phraseology, but also of songs sung in battle, in praise of the king, etc.

We know further of courtly tales and legends spun around loved and feared kings, of popular stories with sometimes jocular and pungent undertones. There were in circulation dire prophecies and political diatribes in poetic form, riddles and animal tales, etc. Of all this we are informed mainly by isolated tablets containing texts that do not belong to the stream of tradition and were written only accidentally and mostly in unique copies. Nevertheless, the very fact that these have survived entitles us to assume the existence of several literary genres that belonged to a tradition different in content and probably also in purpose from the written tradition discussed to this point. It is too simple to call that other tradition "oral," because the possibility has to be considered that a divergence between the written and the "oral" tradition was the consequence of either technological (writing material) or linguistic conditions.

Let us first raise the question as to the social habitat of this type of literature, its carriers and its public. As a habitat outside the stratum in which the stream of the written tradition was in evidence, one could reasonably suggest the court of the kings of Bablyon. The reason why we know next to nothing of the important and natural center of political, economic, and the social life that must have existed there, is simple: no literary text of importance came to light during the excavations of Babylon (due to the rise of the water table in that region), and no archeologist has ever happened to find the ruins of a Babylonian palace.

We do know, however, that the courts of the kings of Ur, Isin, Larsa, and Bablyon harbored both scholars and poets in the second millennium, and there is no reason to suppose that it was any different in the first, although there are hardly any indications available as to this role of the royal court of Babylon.

There are several possible reasons to which this scarcity of documentation could be attributed: the lack of finds from Babylon, the use of perishable wax-covered tablets that may go back further in history than we are now assuming, and the possibility that the Aramaic language became, in Babylonia, at an earlier stage than generally supposed, the vehicle for a literary tradition different from that written in Akkadian and on clay tablets.

Such suggestions are offered here solely to illustrate the essential fact that the traditional cuneiform which we have been discussing should not be considered the main or only product of the creative effort of the Mesopotamian civilization. For its correct evaluation and an appreciation of its achievements and its importance, one has to realize its limitations in purpose, style, and content. One has to concede the existence of other types of literature in that civilization, genres that are of still undefined range, status, and import, even though the evidence is slim and circumstantial.

By no means do the traditional texts offer the most important documentary material for the work of the Assyriologist. There exists—and very often deservedly in the front ranks of interest—an impressive bulk of cuneiform tablets that contain the records of the day-to-day activities of the inhabitants of Mesopotamia, from kings down to shepherds. In time span and geographical distribution, in bulk and in topical variety, they quite often surpass the traditional texts.

These tablets fall into two sharply differing categories: records and letters. The records deal overwhelmingly with administrative transactions of all sorts and originated in the realm of an elaborate bureaucracy that handled with technical skill and methodical consistency the affairs of the temple administrations of southern Babylonia (from Ur to Sippar, and from the end of the third to the last third of the first millennium B.C.). Such records were also used in the royal palaces all over

the ancient Near East, wherever the Akkadian language and the cuneiform system of writing was in use, that is, from Susa north of the Persian Gulf, to Alalakh near the Mediterranean coast. To a much lesser extent, these tablets record private legal transactions, such as sales, rentals, loans, also marriages, adoptions, wills, etc. There exists further a number of international agreements on documents that are scattered through a period of one millennium.

The letters likewise fall into two groups, those dealing with administrative and political matters, and those that are concerned with private and personal affairs. The latter are far less numerous and restricted to specific periods and contexts.

We again feel obliged to venture a reasonable guess as to the number of these records and letters. It can be said that the material already published, together with that known to be kept from publication for a number of reasons by the several larger museums, amounts to about 30,000 to 40,000 tablets. This estimate refers to tablets written in, or predominantly in, Akkadian. Sumerian administrative and legal documents may run easily to more than three times that number.

What information do these texts contain? How and to what degree can this information be utilized for the understanding of Mesopotamian life and customs? Is this the raw material the historians of law and of economic institutions dream of? Is it these texts that will clearly reveal what those who wrote them and those for whom they were written thought about themselves, their world, their gods?

Unfortunately, clear and easy answers to these questions cannot be expected. The potential usefulness of this source of information is severely curtailed by a number of factors. These texts cover a wide area geographically and a very long period of time, so that their large number is sharply reduced when one's research focuses upon a specific point in time and space and up-



on a specific problem. Again, the coverage of these texts is very irregular. Large areas and periods are blacked out for a variety of reasons, and only exceptionally is it possible to obtain insight into developments on a larger scale in time, or into regional differences on a synchronic level.

The picture that any investigation based on such material can obtain consists of a number of mostly disconnected spots of light. It is as if a narrowly confined beam of light haphazardly illuminated this or that city between the Persian Gulf and the Mediterranean Sea at infrequent and irregular intervals during two millennia, leaving everything else in darkness. It is true that within the beam of that spotlight complex institutions and political situations appear as the background in front of which we may observe history in the making—administrators at work collecting and appropriating taxes and services, merchants engaged in far-flung commercial activities, farmers and bankers arguing endlessly about debts, etc. Personalities appear quite often, the rise and fall of families can be observed, but, in most of the instances, for only two or three generations before darkness sets in again. . . .

An equally important obstacle to the utilization of this rich body of material is of a philological nature. This holds true, though for different reasons, for both the records and the letters.

Administrative documents were written solely for internal use; their diction is terse, abbreviated, and full of mysterious technical terms. It is a delicate and difficult task to establish the meanings of these terms that, in the course of time, quite often underwent subtle changes, and to reconstruct their institutional and economic background. Yet, only by doing so could one hope to infuse some life into the strictly formalistic style of ledgers, lists, and receipts. Without a carefully established frame of reference, that is, without our knowing who delivered and who received, and under what title and claim goods and services were

allocated, administrative texts yield only a meager harvest of personal names, a technical vocabulary elaborately describing staples and raw materials, and an opaque residue of unintelligible words from the bureaucratic lingo of the place and period.

Quite different, but equally forbidding, are the philological difficulties that hamper the study of the letters. Most of them are written by, to, and for officials, including the king. Their topics are reports, requests, and executive orders in administrative and legal matters; their diction ranges from voluble protests and insincere excuses to cutting remarks and invective. In the private letters—and there alone in cuneiform texts—we often come in contact with the spoken language, instead of the formalized phraseology of religious texts, the technical jargon of the scholarly literature, and the carefully archaizing and stylized verbiage of the historical texts. In quick-shifting, emotion-charged, but often quite pregnant sentences, topics are taken up and abruptly dropped, and allusions abound to situations known only to both correspondents. Emphasis, irony, rhetorical questions, veiled threats, unfinished sentences, and imprecations run a gamut of syntactic finesses to mold the diction of these letters to such expressiveness that it often remains beyond the ken of the philologist reared in the unreal and inane formalism of the conventional literary texts.

This characterization of the text material available in cuneiform sources has left one rather substantial group aside—the historical texts. This term is commonly applied to the royal inscriptions on which most of what we know of Mesopotamian history is based. They represent an important and valuable source material, but when one searches them for information other than names of kings and places, for more insight than can be offered by repetitious descriptions of victories and the pompous phraseology of triumph, one remains disappointed.

The reason lies in two important stylistic features of these

royal inscriptions which are always overlooked. First, only a rather small fraction of these documents was meant to be read for the purpose of recording and conveying information; instead, they were buried carefully in the foundations of temples and palaces, or placed inaccessibly in buildings or on rocks. Second, they are basically styled as communications of the king to his deity, reporting on warlike deeds and building activities performed. This is especially true for the younger group of Assyrian and Babylonian royal inscriptions which represents an ingenious adaptation of an earlier prototype that, fundamentally, took the form of a votive inscription. As such, these historical inscriptions are extremely interesting, but with regard to available information their yield is rather poor. In combination with king lists and treaties they may well serve to roughly outline the course of historic events, but they cannot bring us any nearer to an understanding of Mesopotamian history. From what social, economic, or other situations sprang the aggressive *élan* of Assyria, the tenacity and the staying power of Babylonia? What pressures guided the continuous struggle of both civilizations in their search for a livable and workable form in which their political and spiritual preferences could materialize with that stability which was to them an eternal dream and which eluded both of them time and again?

Documentary evidence of the type here described can be handled in two ways: either through a process of sustained synthesizing on a specific and restricted level or approach that singles out certain data, and analyzes and interprets them in detail, or, also, through an over-all synthesis that aims at the creation and constant re-creation of a picture that is to embrace the entire civilization, either diachronically or synchronically. The latter kind of synthesis should give direction and impetus to further research by pointing out the frontiers of knowledge and convey, ultimately, an image of the field, of work done, in prog-

ress, or to be desired, to both the Assyriologist and all scholars who care to know about Assyriology.

In both these kinds of synthesis, we have had little effort and less success. With regard to the first kind, one has to remember that the Assyriologist has at his disposal but a small section of material. Any new excavation and any other find can endanger and overthrow the conclusions he has reached. This can place a severe strain on the creative activity and the scholarly *élan* of those who shy away from the traumatic experience of being compelled to discard carefully worked out conclusions. . . .

Another hazard, touched on above, concerns the difficulty of synthesizing data coming from a deeply alien civilization, a civilization that is reflected solely in the dull and distorting mirror of documents written in a dead language. It is necessary, but extremely difficult, to free oneself consciously and consistently from one's own ingrained conceptual conditioning in order to organize adequately any data pertaining to an alien civilization. How else can a Western scholar evaluate the tenor, mood, and sincerity of a polytheistic religion, or comprehend the delicate complexities in the workings of alien institutions which articulate the social and economic practices for which he has at hand nothing but some shattered documents that only accidentally can shed light on the numerous questions he has to ask? And if the wrong questions are posed, whatever answer can be obtained will be wrong or, at least, misleading.

With regard to an over-all synthesis that purports to embrace the entire field, the following procedure has usually been applied. All extant data that can be easily and, mostly, uncritically collected are projected, in complete disregard for chronological, regional, and contextual differences, upon one level in time and one dimension in space within the framework of a grid that reflects nothing but the cultural background of the scholar at work. When one thus "synchronizes" and "consolidates" a not

too varied array of data, one can rather easily achieve what the undemanding and the outsider would term reasonable coverage. When all data are summarily pigeonholed into the conventional framework of such headings as "king," "temple," "religious life," "mythology," "magic," "family," etc., the goal of the presentation is considered reached. It is, of course, easy to shrug one's shoulders over such glib popularizations and leave them to marginal scholars and loquacious archeologists, but one has to confess that this is an attitude of the Assyriologist that borders in many respects on cowardice. The battle for synthesis is the battle to be fought by him, and this battle should be considered this *raison d'être*, even though it is a battle that can know no victorious outcome. The battle as such must be the task of the Assyriologist.

Typically, however, we prefer to escape into peripheral skirmishes. The field of Assyriology has grown so wide and complex that not more than a handful of scholars can claim to be at home in its manifold domains. Most of the Assyriologists restrict their interest to apparently well-documented subdivisions and often select in premature specialization a specific area as their field of research. All this is to a certain extent due to psychological reasons: such work is more likely to yield a feeling of satisfaction, achievement, and security than the continuous endeavor to keep abreast of the incessant changes created by the afflux of new texts, new interpretations, and new meanings.

If what has been said up to now sounds to the reader like a longwinded preamble intended to offer the Assyriologist a panacea, a new deal, a new way, let him be assured that I do not believe that the diagnosis of our malaise allows any such simple medication.

There are indications as to the direction in which one may have to look to remedy the situation here outlined. The spectacular successes in the interpretation of cuneiform texts dealing

with mathematics and astronomy are quite obviously the result of close co-operation between the Assyriologist and the mathematician and astronomer interested in the history of his discipline. And it is no accident that in both these instances the initiative came from the outside. Similar if not so spectacular successes have been experienced in the study of the legal documents from Mesopotamia, in which case the stimulus came likewise from the historian of law.

This may, at last, be the solution of many problems that beset Assyriology. Perhaps the descriptive linguist will help us throw off the fetters that are hampering our progress in the understanding of both the Sumerian and the Akkadian languages, the historian of medicine may well contribute essentially toward the digestion of the numerous medical texts in cuneiform at our disposal that so far have never received any adequate treatment, and the historian of technology will show us the way in which we should investigate, for example, the tablets describing the manufacture of colored glasses and to understand the elaborate technical terminology referring to metallurgy, etc. But one must not stop at the physical sciences in this respect. Assyriology direly needs the understanding and sustained co-operation of interested scholars in economics, the social sciences, and, above all, in cultural anthropology, in order to penetrate toward a better understanding of the institutional structure of Mesopotamia and especially of the religion, or better, the religions, of the entire region that have left us their reflection in uncounted documents.

And the Assyriologist need not be afraid that his discipline will enjoy only an ancillary role in such collaborations—quite the opposite will be the consequence. No history of technology that claims scholarly status can be written when its author has to rely on inadequate and mostly incorrect translations of cuneiform texts pertaining to his subject or on the worthless rehash

of popularizers, and that holds true for all the mentioned disciplines. The Assyriologist should become aware that he holds the key to a potential wealth of information covering far more than two millennia of one of the first great civilizations. If he is in need of a *raison d'être*—here it is.

All this is not meant to be a "program," but neither should it be simply called wishful thinking—it is a way, well worth considering, out of the stagnation from which we suffer, a stagnation of which the most salient symptoms are the shrinkage of topics selected for research, the "flight into specialization," and the scarcity of students who once used to stray over quite frequently from theology into the greener pasture of a new and venturesome discipline.

If the new directions here surveyed mean that Assyriology will eventually move from the humanities into cultural anthropology, I shall shed no tear. The humanities have never been quite successful in treating alien civilizations with that tender care and deep respect that such undertaking demands. Their conceptual tools have been and still are geared for integration on their own terms and for assimilation along Western standards.

Lest I be accused of daydreaming here, or, worse, of preaching, let me point out, in a necessarily very subjective way, where I see the real frontiers of Assyriology. . . .

Philological problems are hardly touched upon—and if they are, only in the style evolved in the nineteenth century. . . . The avoidance of historical studies, beyond the level of the necessary constant adjustment of the chronological framework, is made somewhat less obvious by the smoke screen of the clichés on which the historians of the last century thrived, such as migrations, dark ages, intermediate periods, etc. Little if any thought is given to the essentially literary problem of the evaluation of the documentary evidence from Mesopotamia and its relation

to the historical events. The well-documented complexities of the social and economic life of the region are moreover leveled by assuming unilinear developments or equally unfounded alternations of periods of flowering and catastrophes, and the intricate polyphony of the political life of Assyria and Babylonia are sadly missed by the would-be-historians who listen solely to the *bassi ostinati* of the royal reports on battles, booty, and victories. The fascinating problem of the rise and development of Mesopotamian civilization out of a very early fusion of several streams—of which we are wont to identify only two, the Sumerian and the Akkadian—is likewise generally shunned. The Sumerologists claim whatever is recorded in that language simply as representative of an indigenous Sumerian civilization. Any serious attempt to approach these questions cannot respect language barriers, however, and that should likewise hold true with respect to the Akkadian-speaking Semites and to other layers of Semites whose specific contributions of the social and political structure of Mesopotamia have not yet been established. Above all, one has to take into consideration that there were unidentified languages in the region that betray their existence and importance by an array of geographical, divine, and personal names, as well as an impressive number of technical terms referring to religious and social institutions, essential tools, plants, animals, and technological achievements.

A pall of silence has been allowed to settle in the last decades over that field of research that had so much appeal in the olden days of Assyriology, the religion of Mesopotamia.

There is no "religion" of Mesopotamia to be studied, but a coherent and yet distinct group of manifestations each in its social, regional, and cultic setup. The religion of the theologians, that of the king and his court, of the city dweller, of the farmer on one hand, those of the south and the north, of the peripheral regions, the plains, the piedmont tracts on the other, those of



the small decaying cities, the prosperous capitals, the powerful temples, etc., they all have their internal development, their contacts and antagonisms, which have to be studied, individually and carefully, to yield the information available.

Practically untouched remains, finally, the problem of inter-relating Mesopotamian civilization to the world around it, whether it was giving or taking. These relations materialize on many levels, such as domesticated plants and animals, heat technology (from copper to frit), tools, weapons, crafts, architecture, and communication techniques, and are in evidence in varying degrees of intensity and in opposing directions from the fourth millennium B.C. into the beginning of the first A.D. Archeology and philology have to combine forces to trace such connections, and the field of work will have to extend from Libya to the Pamir and from the Caspian Sea to the sources of the Nile—and even these borderlines will have to be crossed at times. Far more difficult will it be to relate institutions—those which co-ordinate the individual into the group, the subjects to their ruler, men to their gods, or the patterns of expression that formalize man's spiritual expectations and apprehensions, or to trace the borderlines that indicate what, or who, is sacred, what, or who, has power. Like the visible parts of an iceberg, only one-ninth of these data are ever reflected in writing; the balance remains hidden forever in the night of the previous periods.

This list can be lengthened at will. What it is meant to convey is solely the conclusion that Assyriology is still that rich and promising field of research that it ever was, although its frontiers are not as obvious as they used to be. From conquest and incorporation, the Assyriologist will have to turn, sooner or later, to integration and penetration.

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## OF SCHOOLING IN FISH

BY EVELYN SHAW—What makes fish form into schools? Is it instinctive behavior? In an attempt to answer these questions, the author gives a detailed report on her observations of the process.

"When we were little," the Mock Turtle went on at last, more calmly, though still sobbing a little now and then, "we went to school in the sea. The master was an old Turtle—we used to call him Tortoise—"

"Why did you call him Tortoise, if he wasn't one?" Alice asked.

"We called him Tortoise because he taught us," said the Mock Turtle angrily. "Really you are very dull."

—*Alice in Wonderland*,  
LEWIS CARROLL



If you have ever spent time on a summer day swinging your feet over the end of a dock, or drifting in a boat on clear water, you undoubtedly will have seen a school of fish swim by—an orderly little group, intent on business of their own.

Schooling fish are remarkable both for the constancy with which they keep their places in the group and for the way they synchronize their speed and direction of movement. But did you ever wonder why fish form into schools? Or how they do it?

In Lewis Carroll's fantasy school in the sea, of course, the young fish had teachers who taught them lessons. The faculty

was a curious lot—along with the Tortoise, there was the old crab who was Classical Master, and a Conger-eel who taught, among other things, Fainting in Coils.

But in the factual world, the answers are not always so simple. Scientists are not absolutely sure why fish form schools. Some suggest that schooling may be a reaction to disturbance or danger. Some believe it has to do with the search for food. And some think it helps insure reproduction of the species.

How fish develop the schooling pattern is another question. There are investigators who believe that schooling is instinctive or at least is ruled by some internal factors. Observers have found, however, that schooling does not appear immediately after hatching but develops over a period of several weeks, and that visual attraction apparently plays a large role in the process.

During the summers of 1957 and 1958 at the Woods Hole Oceanographic Institution, Woods Hole, Massachusetts, we made studies of the development of schooling in the common silversides [one of the varieties of small fish that are packed commercially as sardines]. The members of the silversides family we observed in these studies were *Menidia menidia* (Linnaeus) and *Menidia beryllina* (Cope), both of which live in the shoal water off shore. We reared and studied approximately a thousand young fish in the laboratory and observed approximately ten thousand others that were swimming free in the sea.

May, June, and July are the spawning months, and spawning takes place over wide areas. The extruded eggs sink to the bottom, adhering to the substratum by adhesive threads. For our laboratory studies, during the spawning season we stripped female adults of their gametes by applying gentle abdominal pressure. We then squeezed the males until we could see white milt [reproductive secretion], which was then added to the eggs. The eggs were fertilized readily and developed normally under laboratory conditions, with no detectable differences in

the embryonic development of the two species.

We placed approximately forty eggs in each of a series of small bowls with sea water which was changed daily. Eight to ten days after fertilization, hatching would take place, and the newly hatched fry were then transferred either to shallow troughs with continuously running fresh sea water, or to large bowls with still sea water which was changed every three days.

The fry were observed from the time they hatched until they were 4 weeks old. During this time they grew from 4.5 mm. ( $\frac{1}{8}$  of an inch) to 14–16 mm.; by the third week, they had reached a length of 12 mm. Fry from the same broods did not vary by more than 0.25 mm.

Whenever the fry were observed, from hatching onward, we found them in groups of 15–30 individuals, concentrated in only one or two areas of their troughs or bowls. These aggregations were a single "fish layer" in depth, and were found near the walls of the vessels and a few millimeters below the surface. There were no noticeable differences in the behavior of fry reared in running water, as compared to those reared in still water, nor in the schooling of the two species.

We saw schooling develop as a response initially between two fry, but with increasing numbers participating as the fry grew.

Among fry 5–7 mm. in length, a fry frequently approached the tail, the head, or the lateral mid-body region of another fry to within 5 mm.; both usually darted rapidly away.

At the next stage, among fry 8–9 mm. long, one fry frequently approached the tail of another and then the two fry, when they were 1–3 cm. apart, generally took a parallel course for 1–2 seconds. Sometimes one fry approached the other head first or perpendicular to the mid-body region; then no orientation occurred, and both darted off rapidly in opposite directions, very much like the younger fry.

Among fry 9–9.5 mm. long, often four or five fry, 1–3 cm. apart, lined up parallel and swam together for 5–10 seconds.

When the fry were 10–10.5 mm. long, as one fry swam toward the tail of another, frequently both fry vibrated when they were near each other, and then one fry invariably followed the other. The result was that, in a crowded area, four to six fry oriented and swam parallel for as long as 30 to 60 seconds. When these schools dispersed, the fry tended to remain in an aggregate.

Among fry 11–12 mm. long, as many as ten fry swam together in parallel orientation. Occasionally the school disrupted but formed again within several seconds. The fish-to-fish distances ranged from 1.0 cm. to 3.5 cm., and considerable maneuvering of position occurred within the school.

As the fry reached 12–13 mm. in length separate schools, containing ten to twenty fry, were formed. The fry kept their group a single "fish layer" in depth, and they ranged freely over the tanks, no longer hovering near the walls.

Finally, when the fry were over 14 mm. long, all the fry in the tank often formed into a single school. The orientation of the fry was more precisely parallel and the fish-to-fish distance was less variable, ranging from 1.0 cm. to 1.5 cm. On rare occasions the fry were as close as 0.5 cm. or as far apart as 2.5 cm.

In summary, we found that approach and orientation in schooling follow characteristic patterns. The first approaches, head on, do not result in orientation; later approaches toward the tail do result in parallel orientation.

In the head-on approach, each fry sees a changing visual pattern, an oval mass, bright black spots (the eyes) coming steadily closer until the intensity is great enough to force a withdrawal of the fry. A fish approaching toward the tail of another fish also sees a changing visual pattern of small silvery

and black spots and a ribbon-like transparent tail; but this pattern is moving steadily away from him, presenting a stimulus of lesser intensity which the fish continues to approach. In the earliest stages parallel orientation may simply reflect the forward momentum of the fish swimming in that direction. Later, as the visuo-motor coordination becomes more highly developed, the fish is able to select the more moderate stimuli and avoid the more intense stimuli. T. C. Schneirla has postulated that in many organisms mild stimuli attract and strong stimuli repel.

In this connection, it is worth noting that there was no difference in the development of schooling between the fish reared in running water and those reared in still water. Most fish, including *Menidia*, show a positive rheotaxis [a movement in which a mechanical stimulation by a stream of fluid, especially water, is the directive factor] when placed in a moderate current flow. Newly hatched *Menidia* immediately orient up-



FIG. 1.—Fry 5-7 mm. in length. Parallel orientation is not seen.



FIG. 2.—Fry 8-9 mm. in length. The first indications of parallel orientation and incipient schooling are seen.

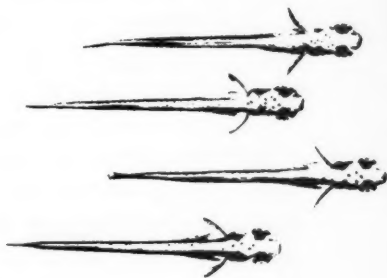


FIG. 3.—Fry 11-12 mm. in length. Fry are oriented parallel and schooling is established.

stream and maintain a constant swimming speed within the current. It seemed possible that orientation in a current could, for instance, accustom preschooling fish to seeing their species mates in certain visual patterns and that this would influence the mutual responses of the fish in a way that would tend to maintain this familiar visual pattern. We found, however, that both fish reared in tanks with a moderate current flow and those reared in still water developed schooling behavior at the same age and with the same characteristic patterns. Orientation to current does *not* seem to act as a stimulus to schooling behavior.

Vision is evidently the primary stimulus sensory in fish-to-fish attraction, as a number of investigators have reported. We undertook one series of experiments in the laboratory in which we found that the development of visual attraction parallels to a large extent the development of schooling.

In these experiments, a freely swimming fish was placed in a shallow bowl, 9 inches in diameter, which contained two narrow glass tubes. Each tube was 6 inches long and  $\frac{3}{8}$  inch in diameter, filled with water and plugged with a cork at each end. We kept a record for a 5-minute period of the number of times the freely swimming fry oriented parallel and close to the tube for at least 5 seconds. At the end of this time, one of the tubes was replaced with an identical tube containing a fry the same size as the freely swimming fry, and the observation was continued for another 5 minutes. The fry within the tube was restricted to swimming up and down the length of the tube.

Response among the freely swimming fry varied with size [age]. The smallest did not respond either to the control tube [containing only water] or to the fish swimming in the tube. But among the larger fry, various responses were noted, and one fry that swam parallel to the fish in the tube for 60 seconds changed directions seven times!



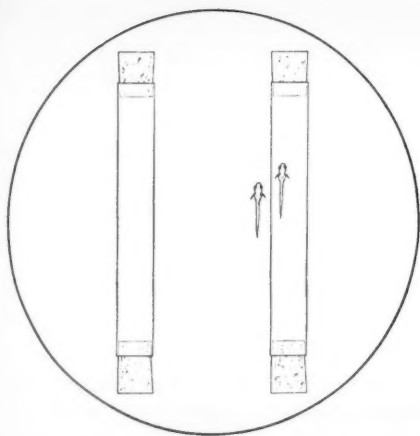


FIG. 4.—*Technique for experiments on visual attraction. Fry in water in bowl is swimming parallel to fry confined in tube.*

Responses to the control tube were minimal. The smallest fry, 5–7 mm. in length, did not approach the tube at all. Among larger fry, out of 148 tested, only nine oriented parallel to the control tube for 5 seconds or more.

The responses to the glass tube with a fish inclosed varied with the size of the fry. Fry 8 mm. long or longer approached the tube and oriented parallel to the fish inside for brief periods. We found, however, that, even though two fry 5–7 mm. long would approach each other when both were swimming free, a freely swimming fry of the same size in the experimental situation would not approach a fry in the tube. There are several possible explanations for the difference in behavior. First, fish of this age may not have had enough experience with species mates to be attracted to the modified image of a species mate in a glass tube. Second, at this early stage of development they may require certain kinds of responses from species mates which cannot be given by a fish restricted in a tube. Third, the approach among the freely swimming fry may be random and not neces-

sarily related to schooling. Fourth, the fish may not be able to swim sufficiently well to orient.

Among the older fish, we found that both the promptness of the response and the time it lasted generally increased with age. It took  $3\frac{1}{2}$ –5 minutes for fry 8–14 mm. long to orient to the tube with a fish in it, while fry 15–16 mm. long responded within 3 minutes. One fry 15 mm. long and two fry 16 mm. long oriented parallel to the fish in the tube in 50 seconds. Further, while fry 8–14 mm. long swam parallel to the inclosed fish for periods of from 5 to 20 seconds, the fry 15–16 mm. long kept a parallel orientation for periods of from 20 to 60 seconds.

We also noticed that as the freely swimming fry approached and began to orient along the tube, the entire body of the fish vibrated for one to two seconds. This motion is quite different from that seen in typical swimming. We could not determine if the fish in the tube also vibrated. The significance of this vibration is not clear, but it may be important to the processes of orientation within the school.

It is evident that at later stages of development the fish are attracted to the visual image of a species mate and will orient parallel to it for a brief period, with the time of orientation increasing as the fry grow older. It is also apparent that even though the visual image gradually becomes a stronger attracting stimulus for the freely swimming fry, it is not sufficient to maintain orientation.

An important aspect of schooling is that it is an interaction between fishes, and interresponses from each fish are required to maintain a school. From studies of fish reared in isolation, it also appears that in the development of schooling behavior the fry are influenced by the responses of species mates.

In our studies in 1957 and 1958, we placed embryos in very early phases of development, when their optic buds were just appearing, in individual bowls containing sea water. The inside

of each bowl was lined with a thin coat of paraffin, so that the embryo could neither see out of the bowl nor see its own reflection on the side.

Out of four hundred fish reared in isolation, only four grew to 15 mm. in length. When each of these four was presented to a school of fish of the same size, they joined the group immediately. At first they seemed unable to maintain their position in the school; they frequently bumped into other fish, and occasionally they dropped out of the school altogether. Gradually, they adjusted to their new schooling situation, and at the end of 4 hours the fish raised in isolation could not be distinguished from the others who had been raised in groups.

The initial disorientation of the fish reared in isolation suggests that, even though these fish are attracted to the schooling group, they need a certain amount of experience in orientation before they are able to orient to the school. Another recent study with acara (*Aequidens latifrons*) showed that fry reared in similar conditions of isolation also joined a school, and C. M. Breder has reported that this is also the case with *Brachydanio*. In sharp contrast to these results, however, it was found that, when acara fry were reared in isolation and then placed together, they did not form a school, even though they did aggregate into groups of two and three. Even though fish have a relatively stereotyped repertory of behavior, it seems obvious that their responses to social situations can be altered by experience.

The fact that only four of the four hundred fish reared in isolation survived while fish reared in groups had a high rate of survival deserves some comment. The isolates never began to feed and apparently died of starvation, which suggests that the presence of brood mates is a requisite to the initiation of feeding. C. M. Breder reported great difficulty in rearing *Brachydanio* in isolation. He suggested that the interaction of groups might be such, metabolically, that it would have rather immedi-

ate survival value. For example, aquarium keepers know that a non-feeding fish will be stimulated to feed in the presence of an actively feeding fish. J. C. Welty also found that fishes in groups stimulate each other to greater activity and that they ate more food per fish when they were in groups than when they were isolated.

During the summers of 1957 and 1958, we also observed thousands of the small fry that school in shoal waters in and around the Woods Hole area in late June, July, and August. Each school generally contains between 30-50 fry, and is made up either of the earliest schooling fry, 12-16 mm. long, or of slightly larger fry, 16-20 mm. long.

The schools of fry 16-20 mm. long swam at uniform speeds, showed consistent parallel orientation, and displayed an impressive synchronization of speed and direction. They kept a fish-to-fish distance of 0.8 cm. to 1.0 cm. with little variation. Generally, the school was rectangular in shape with rows of four or five fishes swimming side by side, and six or seven fishes following after each other.

Among schools of younger fry, 12-16 mm. long, on the other hand, the fish did not always swim at uniform speeds, nor did they show consistent parallel orientation. The fish-to-fish distance varied between 0.5 cm. and 2.5 cm., and stragglers were often seen. These schools were also generally rectangular in shape, but because of the variable fish-to-fish distances they appeared more loosely structured than the schools of older fry.

We found separate schools of both sizes of fry in relatively small areas. One area 20 by 10 feet, for example, harbored six separate schools. If these schools were disturbed and forced to swim away from the locality, they would return soon after the disturbance subsided. Apparently schools tend to remain in the same areas, for as the summer progressed and we made return visits to the same spot, we found larger and larger fry.

We only found preschooling fry on two occasions. Once we observed eight fry, 7-10 mm. in length, drifting on the surface of the water where it was six feet deep. The fry were randomly oriented, swimming activity was minimal, and the fish-to-fish distance varied from 6 inches to 2 feet. On another occasion we found over a hundred preschooling fry in shallow water along the bank, scattered among sedge-grass roots. The fry were closely packed and randomly oriented, but when we disturbed them, they formed into a temporary school for several seconds. C. M. Breder found that startling adult *Brachydanio* caused them to draw together temporarily into a school. In contrast, among schooling fry a disturbance often caused a brief disruption of the school.

The development of schooling in open water would appear to raise some questions. In the vastness of the sea, how can these small fish find one another, form into aggregates, and, finally, into schools? G. Williams has pointed out that when we examine plankton tows [a fine-meshed net, funnel-shaped, pulled through the water, which collects only those small organisms which are drifting] we find that the tows frequently contain large numbers of preschooling *Menidia*. These fry, therefore, do have the opportunity to gain orientative experiences with one another as they are carried by the currents. As they grow and develop both physically and in experience, the fry no longer drift with the plankton but form into many schools of young found along the shores.



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## **CHANGING TRENDS IN INFORMAL MARRIAGE**

*In an increasingly status-conscious nation, recognition of common-law marriage is disappearing from the statutes. But does this correspond to reality in "a society in which double standards of morality are not infrequently found?"*

By Walter O. Weyrauch

The phenomenon of informal marriage is of universal scope, making itself felt in every American jurisdiction, including those which do not recognize the so-called common-law marriage. Legal discussion, however, is largely focused on the institution of common-law marriage, usually seen in the parochial frame of reference of ambiguous legal doctrine as applied in individual states.

It has been asserted that common-law marriage creates confusion, conflict, and uncertainty; that the law should do away with the dichotomy of informal and formal marriage. It is frequently recommended that the states should take a clear-cut position upon the question of validity or invalidity of common-law marriage, and that in doing so they should abolish it. More and more states follow this call; and the negative trend may have reached a crucial point. What are the consequences of abolition? Does it mean that double standards will no longer prevail in marriage? Will only one kind of marriage remain—the one based on a ritual; the formal, licensed, ceremonial one? To what extent would abolition of common-law marriage result in greater

certainty? And to what extent has certainty been achieved in the non-recognizing states? In trying to answer these questions it may be helpful to begin with a discussion of the notions of common-law marriage familiar in American jurisdictions. The complications which will become apparent from this discussion may throw new light on informal marriage and its social significance. As a by-product this may facilitate a more intelligent choice among the local variables of informal marriage, including the controversial one attributed to the common law.

The esteem in which common-law marriage is held is on the decline. Eight years ago about twenty American jurisdictions were usually listed as recognizing common-law marriage. Today only sixteen jurisdictions are left on that list. Indiana, Michigan, Mississippi, and South Dakota, by legislative intervention, have recently abolished common-law marriage. Less than one-third of the American states—representing approximately one-third of the total American population—have retained common-law marriage. However, the area covered by the recognizing jurisdictions extends over almost one-half of the territory of the United States. This fact is noted because it may indicate that population growth has something to do with the negative trend. According to this proposition it may be important to know whether a recognizing state has a high population density, as has Pennsylvania, or at least a fast-growing population, as Florida. Has, perhaps, the national census any relevance for our problem; may nationwide changes in numbers of people result in changing perspectives on marriage?

Let us look at geographical trends more closely. Common-law marriage jurisdictions tend to cluster in certain regions. In the deep South are the recognizing states of Florida, Alabama, Georgia, and South Carolina. In the region of the southwestern prairie we find Texas, Oklahoma, and Kansas. We note the recognizing western mountain states of Colorado, Idaho, and



Montana, and in the East the neighboring states of Ohio and Pennsylvania. Finally, there are a few scattered single jurisdictions: Alaska, Iowa, Rhode Island, and the District of Columbia.

Are any generalizations possible on the geographical level? Occasionally a statement can be found that rural states, or states with frontier conditions, have a greater inclination to recognize common-law marriage. But it is difficult to classify states. Some may argue that Alaska still retains a flavor of the old frontier; yet are Alabama and Texas rural or industrial? Further, two of the main industrial centers of the nation, Ohio and Pennsylvania, still adhere to the concept of common-law marriage, although with misgivings. How should the District of Columbia be classified? Two tentative generalizations may be made at this point. One of them, that jurisdictions recognizing common-law marriage are found frequently in pairs or groups of bordering states, was discussed earlier. In addition, there seems to be a fairly well-balanced spread over the entire country, with even New England having its common-law marriage jurisdiction in Rhode Island and the Middle West in Iowa. Whether this balanced spread has any social significance is part of our consideration.

At this point a mark of caution should be inserted. We must remain aware of the danger of simplification which is characteristic of a discussion of common-law marriage. To some extent this discussion has been of that sort in order to stimulate thoughts on regional trends which, if existing, may affect common-law marriage. This approach must now be revised. It may be fallacious to compile statistics on one form of marriage without being assured of a common denominator. What, then, is a common-law marriage?

Unfortunately, no clear answer to this question is possible, and no definition will be given here. A valid definition of common-law marriage without infinite qualifications can hardly be

found. All we have are approximations which demonstrate ambiguous and vacillating notions of some more or less informal kind of marital status. Whatever hazy notions we have vary not only from jurisdiction to jurisdiction but from case to case within a recognizing jurisdiction. Even non-recognizing jurisdictions may mean different things when they disapprove of common-law marriage. Again, the shades of non-recognition may vary from case to case. A good deal may depend on how the issue comes up. Who is making the decision—a state court or a federal court, an industrial commission or a welfare agency? Who is asking for what relief? Does the litigation involve workmen's compensation, deportation, or an interest in real property? Is the plaintiff an alleged common-law wife seeking alimony in a separate maintenance or divorce suit? Is the case an application for welfare funds for dependent children? Is it a criminal prosecution for bigamy with the government trying to establish a second marriage, entered into without dissolution of a prior marriage? Or is it a prosecution for rape with common-law marriage alleged as a defense? Quite possibly the same court on the same set of facts may find a common-law marriage in one litigation and no common-law marriage in another. The conventional semantic tool used to rationalize away this apparent inconsistency is to say that a common-law marriage is found to exist for certain purposes—as, for example, the granting of relief to an alleged widow under an employer's liability act—but that a marriage may not necessarily exist for other purposes. Frequently the mere existence of children born from the relationship, and the reluctance to burden them with illegitimacy, will influence the outcome in favor of a valid common-law marriage, irrespective of whether the litigation involves different questions wholly unrelated to status. Indeed, the existence of children, although of great actual weight, may not be mentioned in the opinion, or it may be referred to merely in passing.

Further problems arise as to cohabitation. Is it an essential element of a valid common-law marriage, or is it merely a matter of evidence? What does cohabitation require? What about the repute of being husband and wife—is this an additional element, or merely a matter of proof? These questions disturb the legal mind, although really it makes little difference to the parties whether a case is lost because cohabitation or repute is not sufficiently alleged or whether it is lost because of insufficient evidence on these points. The distinction, however, is not entirely academic. Courts frequently favor procedural and evidentiary rationalizations to avoid embarrassment on the part of the losing party, which might be the result if the merits of a claimed common-law marriage were examined. Again, this illustrates how futile it may be to furnish answers on a conceptual level. All the facts of the individual case are needed to get close to the flow of decisions.

Doctrinal complications should not surprise us. Some states customarily classified as not recognizing common-law marriage adhere to doctrines which make it rather doubtful whether the negative classification is proper. Tennessee, for example, has developed new doctrines of marriage by estoppel [meaning, in this context, that a person has led another reasonably to believe in the existence of a marriage, although none in fact exists], by prescription, and by ratification; in other words, a man may be precluded under general standards of fairness and justice to assert that he is not married. One may even say, as did a federal court, that Tennessee has retained a modified concept of common-law marriage. The same characterization can be applied to many jurisdictions which allegedly do not recognize common-law marriage. Other states are hard to classify because of lack of authority in any direction. Maine seems to be an example, although it is ordinarily counted as a non-recognizing jurisdiction. Consequently legal authors who compile statistics on common-

law marriage may arrive at different results, depending perhaps on their emotional reaction to the institution. Earlier, sixteen jurisdictions were tentatively mentioned as still recognizing common-law marriages; actually there may be many more, particularly if one adopts a non-technical, functional classification.

The problems become even more involved in the realm of underlying policies on common-law marriage. The reasons why common-law marriage is retained in the deep South presumably differ substantially from the reasons why the institution is still recognized in Ohio or Montana. Ethnic considerations may have a bearing on the attitude toward common-law marriage in southern states. Strangely enough, this sociological factor is more frequently touched upon in literature, newspaper reports, and court opinions than in treatises or law-review articles, which are perhaps too far removed from the pressures of individual cases. A shift in perspective on race and social structure may result in a shift in perspective on common-law marriage, particularly in tightening up state control over marriage and possible miscegenation by requiring a license to marry in each individual instance. These newer trends in the South conflict with older policies of minimum interference. All this hardly influences perspectives on common-law marriage in other American jurisdictions which do not have statutes and policies on miscegenation.

Sometimes policy variations can be found in the same geographical vicinity. The bordering states of Utah and Nevada do not recognize common-law marriage. But can they be validly grouped together without further clarification? Utah, for example, has a strong policy against common-law marriages of Utah domiciliaries, even if entered into in a recognizing jurisdiction. We may have here, perhaps, an underlying idiosyncrasy in respect to any kind of informal marriage, based on a fear that a hazy concept of the law of marriage may be manipulated to re-establish, or at least to facilitate, polygamy, which was

once accepted practice in Utah. Nevada, neighbor of Utah, has different problems. Nevada features not only divorce mills, but also marriage mills where licenses can be obtained at will. For years the statistics on formal marriages contracted in Nevada, increased by migratory unions, were more than twenty times the national average. Such an inflated concept of formal marriage may leave little room for recognition of common-law marriage. Indeed, if a state were to adopt a practice of granting marriage licenses upon feeding coins to a vending machine, the marriage thereafter to be performed by the shop owner, it would be hard to retain any functional distinction between informal and formal marriage.

Compare also the inflated Nevada statistics on licensed marriages and the waning statistics of Tennessee. Tennessee is far at the opposite end of the census, having the lowest rate of licensed marriages in the nation. Does this mean that many people in Tennessee effect informal unions, perhaps later sustained by Tennessee estoppel doctrines? If so, how does this differ from openly admitting common-law marriage? Or do these low figures on marriage licenses merely indicate that people in Tennessee go to neighboring states to marry? The deeper one delves into the statistics, the more problems are disclosed. For example, one would expect common-law marriage states to show statistics on licensed marriages below the national average because of the flow of informal marriages being diverted from the county courthouses. The contrary is true. Many common-law marriage jurisdictions show statistics on licensed marriages above the national average. In addition, many of the so-called non-recognizing states are below the national average as to reported licensed marriages, although, as a matter of logic, it would seem that they should show higher figures. A parallel phenomenon is found in the ethnic dimension: It is asserted that common-law marriage is more frequent in the non-white population, per-

haps as a relic of the old slave marriages. If this were true, one would expect a lower incidence of licensed marriages among non-whites. The contrary seems to be the case. Since the turn of the century the rate of licensed marriages has been substantially higher in the non-white population than in the white population.

What does all this mean? Are intangible sociological factors at work which result in different policies in different American regions and ethnic stratifications, as well as in statistical fluctuations? Or are the phenomena merely accidental? Raising these questions may be more important than furnishing haphazard answers. The manifestations of marriage are based on problems of enormous complexity. Field research is needed, perhaps in co-operation with caseworkers of welfare agencies. Attempts to reach solutions by familiar techniques of legal research do not seem very promising. But this is the very method by which the lawyer, bound by training and habit, approaches the issue.

Not all of the jurisdictions which openly recognize common-law marriage are actually in favor of the institution. At least six of them are more or less hostile to the concept. Among these are Florida, Ohio, Pennsylvania, Texas, Oklahoma, and Kansas. The negative statements made by judges are frequently couched in such high-sounding language as "the law does not favor, but merely tolerates, common-law marriage," or "such informal marriages are seldom recognized and are held valid by courts only to protect the rights of innocent persons." The Supreme Court of Florida has stated that abolition should be left to the legislature. In the meantime, it is said, rather stringent requirements should be applied as to the evidence, particularly if a woman tries to reap financial benefits from an alleged common-law marriage. The consequence of these negative predispositions is a lobby favoring legislative abolition of common-law marriage. Even the judicial branch of the government partici-

pates in this lobby by way of dictum in reported decisions.

Although the state legislators hesitate to yield to pressure, they employ various dilatory strategies to channel the population away from common-law marriage while retaining it as a matter of form. The target of these legislative steps is primarily the stratum of the population of lower economic and social status. Two examples from Florida are illustrative. In 1959 the Florida legislature provided for registration of common-law marriages as a prerequisite to obtaining welfare funds. Eligibility under the assistance to dependent children program depends on a showing of a "suitable home" and a "stable moral environment for the child." An alleged common-law marriage qualifies for these purposes only if it is registered with the county judge. The requirements for, and costs of, the registration are the same as in the case of an application for a marriage license. The underlying legislative intent is obvious: If people encounter that much trouble in having their common-law marriage approved, at least for purposes of obtaining welfare funds, they may decide to get a regular marriage license "at no extra cost." The second Florida method of channelling the population in the direction of formal marriage provides that any person who enters into the contract of marriage without a health certificate shall be guilty of a misdemeanor. Thus, although their union is recognized by the law, the parties to a common-law marriage may be subjected to punishment. The actual implications of this somewhat odd provision, which was adopted in 1945, are hazy because of present lack of enforcement. However, it may furnish a tool to prevent socially undesirable unions by application of the police power. A technically valid child marriage, possible under common law, could be broken up by detaining the participants as "juvenile delinquents," or, if one of them is an adult, by arresting him for contributing to such delinquency. Although it is often not admitted, power may effectively terminate legal



rights. Once they are behind the walls of a detention home or the county jail, it may become futile for the participants to insist on their marriage, particularly since the police power of the state, bolstered by an outraged society, interferes with a sufficient showing of cohabitation and the repute of being married.

The reasons which are given for complete abolition of common-law marriage are manifold. Our society has changed. We no longer have frontier conditions. County seats are easily accessible. The social environment and perspectives on marriage have also changed. Marriage has been affected by the emancipation of women, the sex consciousness of the modern public, and the development and extensive use of birth-control devices. As a result of this, it is asserted, cohabitation does not imply an intent to be married to the same extent that it did a century ago. Issues of morality are raised in this context. The term *common-law wife* is used by the public, and sometimes even by judges, in a disrespectful fashion. The word is used to imply that a woman is not a real wife, that she is engaged in a meretricious relationship; that she is on the same level as a "divorcee" or an "easy lay." The legal conceptualists are equally disturbed by the difficulty of drawing a line between illicit cohabitation and common-law marriage. They claim that the law permits only two alternatives, a valid marriage and an invalid marriage, with no in-between stages. The trouble with common-law marriage, they say, is that it may require a certain degree of cohabitation, illicit at its inception, before it becomes a valid marriage. Common-law marriage would, therefore, legitimize promiscuity. It is further alleged that most common-law spouses do not really consider themselves married. They do not think, for example, that formal divorce would be necessary in order to bring the relationship to an end. The claim of common-law marriage, it is asserted, is raised usually at a belated stage, at a time when cohabitation has ceased, with no other purpose than to obtain



retroactively advantages that attach only to a valid marriage.

A further argument for abolition of common-law marriage is that it would be abused by gold-diggers seeking financial advantages from innocent persons by embarrassing litigation. The fact is emphasized that alleged common-law wives are usually in the role of plaintiffs. The Supreme Court of Florida adds further weight by observing a marked increase in litigation on common-law marriage since 1945, the year when actions for breach of promise were abolished in the state. The implication is that judgment-hungry women no longer assert a mere engagement in order to obtain benefits, since this avenue has been barred by the new anti-heart-balm legislation, but now claim a full-fledged common-law marriage, with resulting claims for support. The reasoning is somewhat similar to that asserted in favor of the statute of frauds, the form requirements assuming the function of safeguarding deliberation and preventing fraud and perjury.

Still a further argument is based on considerations of public welfare and health. Requiring a health certificate as a condition precedent to a marriage license may be futile if physical examination can be evaded by entering into a common-law marriage. The government has few opportunities to check health: in school, in the military service, and perhaps prior to marriage.

One of the most effective arguments for the abolition of common-law marriage is little concerned with well-being, affection, or rectitude. It is based primarily on issues of wealth and power. Unrecorded common-law marriages result in confusion of the public records. Land transactions may be jeopardized when they take place without the required joinder of an alleged common-law husband or wife. Title to land may be clouded after the death of one of the participants, with all kinds of complications arising out of dower, homestead, and tenancy by the entirety. Also, the government may be unable to keep track of the

population. No reliable statistics on marriage and divorce are possible so long as a hazy concept is permitted to befuddle the census.

All these rationalizations favoring abolition of common-law marriage acquire new shades of meaning when we consider the persons and pressure groups who make them. At once a heavy institutional pressure becomes apparent. It is not only the courts which look with disfavor upon common-law marriage but also state attorneys general, the American Bar Association, various state bar associations, the Commissioners on Uniform State Laws, the Social Security and Veterans administrations, welfare organizations, state bureaus of vital statistics, and, we may assume, the Bureau of the Census. In addition there may be an insurance lobby because of the frequency with which common-law marriages are claimed by alleged widows to obtain benefits under workmen's compensation laws.

On the other side of the fence we find primarily conservative state legislators, frequently elected from rural, sparsely populated districts. These legislative groups may be the primary targets of institutional pressure. Since they often dominate local politics, their reluctance to abolish common-law marriage may be one of the reasons why it is still retained in some jurisdictions. The issue of abolishing common-law marriage may be only incidental to more important ones; it may be part of a power struggle of much larger scope. So far the outcome is a status quo. Since these groups are on the defensive and control fewer institutional facilities than those favoring abolition of common-law marriage, the strategy is essentially one of delay and procrastination. Consequently, the arguments of these groups do not often appear in print. These rationalizations, therefore, are much less articulate than those favoring abolition. They refer primarily to practical needs. Common-law marriage, some feel, furnishes a handy tool to avoid hardship in individual

cases. It may aid and protect the poor and the ignorant in their family relations. Also, it may benefit an innocent spouse after removal of some impediment to a prior formal marriage, or after migration to a more obliging jurisdiction. Finally—and this is probably one of the main arguments—it may be used to protect innocent children from the stigma of illegitimacy.

To this short list we may add some further grounds which are not sufficiently spelled out elsewhere. The enormous complexity of our modern federal system, a complexity which supersedes the unlimited space of the frontier days, is relevant here. Not only do we have fifty one different laws of marriage, but sometimes the variations are substantial within a few miles' radius. Florida, for example, is unconcerned about affinity. A man in Florida apparently may marry his stepmother after she obtains a divorce from his father, even if she has had children from that marriage. Alabama, Florida's neighbor in the northwest, considers such marriages contrary to the laws of nature "as generally recognized in Christian countries." We may safely assume that public feeling on the problem of affinity does not really differ in Florida and Alabama. Many seemingly strong policy clashes in the law of marriage are fictitious. Variations of the described kind may eventually grow within the same region, perhaps more or less capriciously initiated and developed by local legislators and courts, but without response from the people. Common-law marriage may furnish a counteracting device to be applied in individual cases by local courts. On the other hand, increasing rigidity on the local level in matters of marriage may eventually result in federal regulation of the whole marital scheme. The question may be whether American society as a whole is benefited by a state-regulated, airtight system of formal marriage. State regulation, if it is to be retained in the field of domestic relations, may require the continued presence of conceptual avenues of escape. The ambiguity and evasiveness of the con-

cept of common-law marriage may serve this social function. From this standpoint, the well-balanced distribution of common-law marriage jurisdictions over the United States is worthy of closer scrutiny. Is this balance accidental? The answer is not easy because of the many intangible factors in a subdivided and stratified society such as ours.

A further argument that could be made for retaining common-law marriage is of a more psychological nature. Almost all of the objections to common-law marriage, in particular the ones bearing a moral connotation, can be raised equally against formal marriage. True, society has changed, but so has the concept of formal marriage. Easy divorces are available, and frequently a formal marriage may be entered into for temporary convenience, without an unconditional intent to be bound for life. Cases illustrate that notorious concubinage and even debauchery may ultimately lead to a formal and ceremonial marriage. Modern dating practices encourage promiscuity in various shades, although they normally culminate in formal marriage. A sociologist asserts that today's marriage is for most young Americans merely a legally sanctioned analogue to a first liaison which provides for greater privacy than does the back seat of an automobile or a temporarily deserted living room. And medieval English authorities stated that not infrequently the call of sensuality might lead to an ecclesiastical ceremony, the church thereby becoming a vehicle for lust and carnality rather than an instrument of faith and truth.

Every divorce lawyer knows that gold-diggers abuse formal marriage as well as common-law marriage. The female party is the aggressor in the vast majority of matrimonial cases, and issues of wealth and property usually overshadow considerations of status, irrespective of whether the litigation concerns an informal or a formal marriage. Blackmail and extortion by a "formal and licensed" wife is frequent in divorce litigation, both

in the preliminary phase of cruel bargaining on the divorce grounds, and later when the issue is custody of the children and the support money which goes with them. On the other hand, the claim of blackmail and fraud, although vigorously voiced, is not always substantiated in litigation involving alleged common-law marriages. As to the argument that form may safeguard deliberation, and that by insisting on licenses it may be more difficult for women to take advantage of gullible males, again the counterargument can be made that lack of form may also safeguard deliberation, at least as far as the female party is concerned. A woman may think twice before entering into a sexual relationship without formal license. In any event, the degree of deliberation of both parties is rarely high because of the romantic concept of love, no matter whether a formal or informal relationship is the result. The hasty, though formal, marriages of young couples who run off to neighboring jurisdictions to save themselves a few days' waiting period required under local law do not speak for a high degree of deliberation.

It is true that so-called common-law spouses frequently do not consider formal divorce to be necessary. Consequently, a common-law marriage is often terminated by factual desertion, or so-called poor man's divorce. But this is also true of many formal marriages. The conventional assertion of lawyers that both common-law marriage and licensed marriage can be dissolved only by formal divorce is not borne out by reality. Every year in the United States thousands of husbands abandon their wives, even though their marriages were formal, and a great many of them are never located again. Legal presumptions work in favor of subsequent marriages, particularly if the deserting spouse has lived in many states, or if his itinerary is uncertain or erratic. The more or less fictitious presumption that somewhere he obtained a valid divorce may be impossible to overcome. As a result of this, the poor man's divorce is frequently

more effective than, let us say, a formal Nevada divorce decree. Thus the formal-informal marriage dichotomy corresponds to the possibility of formal and informal divorce, the latter one being a divorce by presumption. As poor man's divorce may effectively dissolve any marriage, no matter whether common law or licensed, it is perhaps not very realistic to imply an intent to be married from a fictitious notion that only formal divorce or death may terminate the relationship.

The upshot is that, since most arguments against common-law marriage can be applied equally to licensed marriage, presumably more is involved than a rational desire to do away with the evils of informal unions. We may have, partially at least, the manifestation of a subconscious anxiety, perhaps a carry-over from infancy, supported by puritan heritage. The subjects of this anxiety may want to prevent the breaking up of the home by knitting parent images together in a compulsive ritual. Common-law marriage as an ambiguous and elusive notion tends to increase this anxiety, thus furnishing a scapegoat. Yet abolition may not help. Formal marriage, in modern times, offers little more personal security than common-law marriage unless the parties to it are bound together by choice rather than social pressure and legal compulsion.

The discussion may not properly be left at this point. The issue is infinitely more complicated. All the arguments for retaining common-law marriage do not preclude the possibility of numerous alternative escape avenues in case of abolition, even if abolition were to become uniform in the United States. Non-common-law marriage jurisdictions have developed other types of informal marriage. Although only a few major examples will be mentioned here, we may assume that each non-recognizing jurisdiction produces its own escape devices which moderate the rigidity of formal marriage.

Tennessee has developed over more than a century a whole

battery of techniques by judicial fiat. Marriage by estoppel may be found in cases of cohabitation over a long period of time, irrespective of a bona fide attempt of the parties to comply with the requirements of statutory marriage. Marriage by conclusive presumption or by prescription, and marriage by ratification after removal of some impediment, are other techniques used in Tennessee for granting relief in cases of continued cohabitation.

Missouri, Washington, and Louisiana have developed a method of marriage by presumption which differs somewhat from the Tennessee approach. In these states prolonged cohabitation and repute of being married merely raise a rebuttable presumption that somewhere and somehow a formal marriage was contracted. Actually, this so-called rebuttable presumption may be so hard to overcome that, if the court wishes, it becomes conclusive for all practical purposes. Marriage, after all, may take place anywhere, because it is not linked up with notions of domicile, as is divorce. The person attacking this kind of a marriage may be faced with the burden of searching the records in all American jurisdictions, and even in foreign nations, regardless of the residence of the presumed spouses. A Louisiana writer submits, therefore, that this manipulation of evidence is in fact a relaxation of the rule requiring some act of celebration, and that it closely approaches a recognition of common-law marriage. Louisiana, although technically not recognizing common-law marriage, also has a so-called putative marriage to protect the innocent spouse. A reasonable belief in the existence of a marriage may be sufficient to brush aside all formal requirements.

Kentucky has developed a statutory method of recognizing common-law marriage for limited purposes of workmen's compensation, while denying recognition in other respects. Virginia and West Virginia treat children from common-law marriages



as legitimate, although the marriage itself is held to be void. New Hampshire has a form of marriage by statutory fiction. After prolonged cohabitation, and the death of one of them, the parties are deemed to have been legally married. There are still other instances in which a valid marriage may be found despite irregularity, or complete absence, of solemnization.

Florida, still a recognizing jurisdiction, has already laid the foundation for alternative doctrines of informal marriage in case common-law marriage should be abolished. At the present time all Florida license requirements are held to be directory. If common-law marriage should be abolished, how much form would be required in order to sustain a valid marriage? The void-voidable dichotomy can be manipulated equally as well in Florida as in any other jurisdiction to reach practically the same effects as in a common-law marriage. The strategy will be to find a voidable marriage in case of formal defects. In other words, a marriage would be legal until invalidated by some affirmative step. The likelihood of such a step is not very great after the birth of a child or death of one of the spouses. This argument has already been made in Florida to sustain certain kinds of proxy marriages. In one instance the Supreme Court of Florida developed a doctrine of ostensible marriage for the purpose of holding an alleged husband liable. In another case a bigamous marriage was sustained by way of estoppel, at least for the purpose of obtaining separate maintenance, although the alleged wife apparently was everything else but bona fide. In these cases conventional doctrines were manipulated to reach unconventional results. Although the factual situations were unique and ordinarily would not permit generalization, the prediction may be made that decision-makers will easily overcome imaginary hurdles of precedent after abolition of common-law marriage.

The situation in Indiana is interesting. That jurisdiction re-



cently abolished common-law marriages by expressly declaring them "null and void." In spite of this seemingly clear language almost all the alternative escape avenues already mentioned are now discussed for possible adoption. In addition, an argument is made that the legislature was not sufficiently specific for the courts to apply the "sanction of invalidity," particularly since other sanctions, criminal, administrative, civil, and fiscal, are available. In other words, abolition of common-law marriage will not necessarily be fully enforced.

This brings us to the ultimate escape strategy: non-enforcement of formal law, especially criminal statutes on fornication, adultery, and bigamy. It is not likely that social patterns of family organization will radically change after abolition of common-law marriage. Non-enforcement of criminal sanctions may avoid individual hardship cases by establishing some kind of de facto marriage by way of executive toleration. To all outside appearances this kind of tolerated sexual union may be hard to distinguish from a "tolerated" common-law marriage, or even from any regular marriage, at least as far as an unsuspecting or sympathetic neighborhood is concerned. True, the children of these unions are illegitimate, but no one may be aware of that fact; and if they are adequately cared for, it may never become an issue.

Perhaps some hypotheses and recommendations are in order. The unpopularity of common-law marriage may arise from the fact that we are living in an increasingly status-conscious nation. The society pages of local newspapers, with formal announcements of marriages, are only manifestations of a universal trend. Middle-class morality and modern conformism foster a standardized concept of marriage. Compulsory elements in marriage are on the increase. The influence of institutional pressure is heavily noticeable. For one reason or another, formal marriage, seemingly entered into for life, but

actually conditioned upon cheap and speedy divorce, is more acceptable to our culture than a retroactive legal manipulation of informal unions. All social pressure goes therefore in the direction of formalized sexual ties, to be formally dissolved. To what extent this postulate corresponds to reality may be of little concern to a society in which double standards of morality are not infrequently found.

The label of common-law marriage does not fit well in these newer social patterns. The rugged individualism of American frontier days, which favored the growth of common-law marriage, is on the decline. All this may be part of a universal craving for greater certainty making itself felt in the law. The trend toward uniform legislation and the American restatements of the common law furnish illustrations. So does the growing desire "to get this marriage mess straightened out." On the other hand, common-law marriage may still perform some valid social functions, not because of frontier conditions, but because of the increasing tension and complexity of our society. Problems arising out of the historical concept of federation, as confronted with the realities of modern life, are only one example. Common-law marriage, jointly with other kinds of informal marriage, may assume the function of a safety valve for releasing accumulated pressure and avoiding hardship in individual cases.

It is submitted that abolition of common-law marriage will not result in greater certainty. Informal marriage will continue to exist in changed appearance by manipulation of legal doctrines other than common-law marriage which lawyers are so able to invent in case of need. The outcome will be, as the recent Indiana experience shows, the exchange of one ambiguity for other ambiguities. Will a divorce be necessary, for example, to destroy the effects of a marriage by estoppel, by presumption, or by legal fiction? Which of these informal mar-

riages may be a sufficient basis for a bigamy prosecution? How do these concepts affect legitimacy of children? What about the confusion of public records—will the situation be any better than before abolition of common-law marriage? In any event, the controversy on common-law marriage in its present state results in an enormous waste of effort and brain power which could be more constructively used for factual research on marriage. Even then, the outcome would uncover only some aspects of human nature and hardly result in much certainty.

On the other hand, a change of legal label, wasteful as it may be, is not completely without significance. Abolition of common-law marriage may have a tranquilizing function. It may create the appearance of moral achievement, while actually old impulses continue to be gratified in new channels. In this respect we face not only a legal issue, but also a psychological and sociological problem: how to cope with the subconscious anxieties of our times and their various manifestations. It is only natural that the institution of the family, which comprises both informal and formal marriage, is seriously affected.

We should look for possible sources of the trouble rather than for new words. One valid undertaking would be to clarify the unbalanced influence of women on American morality; another might be to trace the subconscious effects of the puritan heritage. Large segments of our population, if not the majority, have little historical or other relation to these phenomena, and the more or less forced process of assimilation may result in serious consequences of an emotional nature. It is not impossible that these intangible influences increase social tension, ultimately resulting in exaggerated patterns of indulgence and deprivation. Abolition of common-law marriage may fall into a vein related to other prohibitions in the American past which were legally ineffective and socially harmful as an outgrowth of unstable emotional conditions.

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